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A COLLECTION

OF

THE ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR

1887.

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TITLES OF ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1887.

I. An Act for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

II. to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

III. to amend the Indian Evidence Act, 1872.

IV. to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

V. to amend the Code of Criminal Procedure, 1882.

VI. to amend the Indian Companies Act, 1882.

VII. to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

VIII. to abolish Military Courts of Requests as established by Indian Military Law.

IX. to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

X. to consolidate and amend the law relating to Native Passenger Ships.

XI. to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway.

XII. to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

XIII. to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

XIV. for the better administration of Her Majesty's Indian Marine Service.

XV. for the Regulation of Military Police in Burma.

XVI. to amend the Law relating to the Tenancy of Land in the Punjab.

XVII. to amend and declare the Land-revenue Law of the Punjab.

XVIII. to establish a University at Allahabad.

XIX. to provide for the Administration of the Estate of His late Majesty the King of Oudh.

XX. for the protection of Wild Birds and Game.

XXI. to provide for the establishment of bonded warehouses at places other than customs-ports.

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TO THE

ACT PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN THE YEAR 1887.

[NOTE.—The abbreviations Mad., Bo., Ben., N.-W. P., P. and A. indicate that the entries against which they are placed refer only to Madras, Bombay, Bengal, North-Western Provinces, Panjab and Assam respectively.]

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"voluntarily causing hurt" to have same meaning as in Indian Penal Code, 1860	XV	*ib.* (*6*)
"voyage" defined	X	5 (*5*)
"warrant officer" defined	XIV	2 (*1*) (*c*)
"wild bird" defined	XX	2 (*3*)
"write" (with its grammatical variations and cognate expressions)	I	3 (*14*)
WRIT OF DEMAND; when it may be issued	XVII	68

Government of India Central Printing Office.—No. 250 L. D.—3-2-88.—4000.—E. B.

BENGAL SECRETARIAT LIBRARY.

ACT No. I OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th January, 1887.)

An Act for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the General Clauses Act, 1887; and

(*2*) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

Application of this Part.

2. This Part shall apply to this Act and to all Acts made by the Governor General in Council under the Indian Councils Act, 1861, after the passing of this Act.

24 & 25 Vic., c. 67.

Definitions.

3. In any Act to which this Part applies, unless there is something repugnant in the subject or context,—

(*1*) "abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

XLV of 1860.

(*2*) "Chapter"

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(*2*) "Chapter", "Part" and "schedule" shall denote, respectively, a Chapter and Part of, and schedule to, the Act in which the word occurs:

(*3*) "sub-section" shall denote a sub-section of the section in which the word occurs:

(*4*) "commencement", used with reference to an Act, shall mean the day on which the Act comes into force:

(*5*) "financial year" shall mean the year commencing on the first day of April:

(*6*) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(*7*) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

(*8*) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship:

(*9*) "offence" shall mean any act or omission made punishable by any law for the time being in force:

(*10*) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code:

(*11*) "registered" shall mean registered under the law for the time being in force for the registration of documents:

(*12*) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions:

(*13*) "value", used with reference to a suit, shall mean

mean the amount or value of the subject-matter of the suit: and

(*14*) "write", with its grammatical variations and cognate expressions, shall include "print" and "lithograph", with their grammatical variations and cognate expressions.

Making of rules and issue of orders between passing and commencement of Act.

4. Where, by an Act to which this part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

Powers to be exerciseable by the Government from time to time.

5. Any power conferred on the Governor General in Council or on a Local Government by an Act to which this Part applies may be exercised from time to time as occasion requires.

Provisions applicable to making of rules after previous publication.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely:—

(*1*) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes.

(*3*) There

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(*5*) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publication shall be conclusive proof that the rule has been duly made.

Computation of time.

7. (*1*) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(*2*) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(*3*) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies. XV of 1877.

Provisions as to offences under more than one enactment.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

PART II.

SUPPLEMENTAL PROVISIONS.

Amendment of section 3 (1), Act I, 1868.

9. The words "wholly or partially" shall be inserted before the word "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and shall be deemed to have been there from the commencement of that Act.

I of 1868.

Application of this Act and Act I, 1868, to Regulations under 33 Vic., c. 3, s. 1.

10. The provisions of this Act and of the General Clauses Act, 1868, shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor General under the Statute 33 Victoria, chapter 3, section 1, after the commencement of this Act.

I of 1868.

Government of India Central Printing Office.—No. 373 L. D.—21-1-87.—3,700

ACT No. II OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 14th January, 1887.*)

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882;

VIII of 1878. XXII of 1881. XI of 1882.

It is hereby enacted as follows:—

Sea Customs Act, 1878.

Amendment of section 144.

1. (*1*) In clause (*b*) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word "unless" the word "either" and after the word "destination" the following, namely:—

VIII of 1878.

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port."

(*2*) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid", namely:—

"so paid or the spirit so delivered."

Amendment of section 146.

2. In section 146 of the same Act, for the word "shall" in each of the two places where that word occurs, the word "may" shall be substituted.

Amendment of section 148.

3. (*1*) To section 148 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the Indian Tariff Act, 1882,".

XI of 1882.

(*2*) To

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(*2*) To the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.

Amendment of section 151.

4. (*1*) To section 151 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the Indian Tariff Act, 1882,". XI of 1882.

(*2*) After the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed."

Excise Act, 1881.

New section substituted for section 23. Spirit and fermented liquor from foreign territory subject to duty.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely :— XXII of 1881.

"23. (*1*) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

"(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

"(*b*) if

"(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

"(*2*) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882. XI of 1882.

"(*3*) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final."

Amendment of section 36.

6. (*1*) In clause (*c*) of section 36 of the same Act, the words "or fermented liquor" shall be inserted after the words "any spirit".

(*2*) In the last paragraph of the same section of the same Act the words "or fermented liquor" shall be inserted between the words "the spirit" and the words "together with".

Indian Tariff Act, 1882.

Repeal of portion of preamble.

7. In the preamble to the Indian Tariff Act, 1882, the words "and for fixing a maximum duty of excise on spirit manufactured in British India" are repealed.

Addition to section 7.

8. To section 7 of the same Act the following shall be added, namely :—

"Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878. VIII of 1878.

Amendment of Second Schedule.

9. In No. 2 of the Second Schedule to the same Act—

(*a*) "Rs. 5" shall be substituted for "Rs. 4" in the fifth column as the rate of duty to be levied

levied and collected per Imperial Gallon or six quart bottles of "Liqueurs"; and

(*b*) for the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.
	Spirit, perfumed, in wood, or in bottles containing more than four ounces.	Ditto . .	...	
	Spirit, other sorts .	Ditto . .	...	

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Impl. Gallon or six quart bottles	...	Rs. 7-8.
	Spirit, other sorts.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

Government of India Central Printing Office.—No. 562 L. D.—5-4-88.—600.—J. W. DeB.

ACT No. III OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th January, 1887.)

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

New section substituted for section 125 of the Evidence Act.

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:— I of 1872.

Information as to commission of offences.

"125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.—'Revenue-officer' in this section means any officer employed in or about the business of any branch of the public revenue."

[*Price one anna.*]

Government of India Central Printing Office.—No. 563 L. D.—4-4-88.—600.—F. T. B.

ACT No. IV OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th January, 1887.)

An Act to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

WHEREAS it is expedient to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to amend the law relating to the powers of the said Trustees; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Indian Museum Act, 1887; and

(*2*) It shall come into force at once.

Repeal of certain sections of Act XXII of 1876.

2. Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.

Substitution of new sections for sections repealed.

3. For those sections the following shall be substituted, namely:—

"*Incorporation of the Trustees.*

Constitution and incorporation of the Trustees of the Indian Museum.

"3. The Trustees of the said Indian Museum shall be—

(*a*) the person for the time being holding the office of Accountant General of Bengal;

(*b*) five other persons to be appointed by the Governor General in Council;

(*c*) five other persons to be appointed by the Lieutenant-Governor of Bengal;

(*d*) five

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(*d*) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and

(*e*) five other persons to be appointed by the Trustees;

and the said Trustees shall be a body corporate, by the name of the Trustees of the Indian Museum, and shall have perpetual succession and a common seal.

Number of corporators.

"4. All the powers of the said body corporate may be exercised so long and so often as there are nine members thereof.

Power to appoint new Trustees.

"5. If a trustee appointed under section 3 dies, or is absent from the meetings of the Trustees for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or becomes Accountant General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place."

Continuance of existing Trustees.

4. (*1*) For the purposes of the Indian Museum Act, 1876, as amended by this Act— XXII of 1876.

(*a*) the persons nominated by the Governor General in Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Governor General in Council under section 3 of that Act as amended by this Act;

(*b*) the President of the Asiatic Society of Bengal, and the other members of the Council of that Society nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section; and

(*c*) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

(*2*) The

(*2*) The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall cease to be *ex officio* members of the said body corporate.

Power to Trustees to keep collections not belonging to them.

5. Notwithstanding anything in the Indian Museum Act, 1876,— XXII of 1876.

(*a*) the Trustees of the Indian Museum, if they think fit, may, with the previous sanction of the Governor General in Council, and subject in each case to such conditions as he may approve and to such rules as he may prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

(*b*) in the event of the trust constituted by that Act being determined, collections of which the Trustees have assumed the custody and administration under the foregoing part of this section shall not by reason of their then being in the Indian Museum become the property of the Government of India.

And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes; and whereas the Trustees are by virtue of that provision in possession of the property described in the schedule to this Act; It is hereby enacted as follows:— XXII of 1876.

Power to Trustees to part with certain property in their possession.

6. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of

of the whole or any part of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE.

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall; on the west and the south-west by the Chowringhee Road and the walls of the premises known as No. 29, Chowringhee Road; on the south by Kyd Street; and on the east by the walls of the premises known as No. 15, Kyd Street, and No. 4, Chowringhee Lane; measuring in all four acres three roods and sixteen perches; together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

Government of India Central Printing Office.—No. 376 L. D.—22-1-87.—3,700

ACT No. V OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 28th January, 1887.)

An Act to amend the Code of Criminal Procedure, 1882.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 4.

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (*o*), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house", and for the words "present at the Police-station" the words "present at the station-house".

Amendment of section 312.

2. In section 312 of the said Code the word four" shall be substituted for the word "two".

[*Price one anna.*]

Government of India Central Printing Office.—No. 565 L. D.—5-4-88.—600.—J. W. DeB.

ACT No. VI OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 11th February, 1887.)

An Act to amend the Indian Companies Act, 1882.

VI of 1882.

WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

VI of 1882.

Insertion of new section after section 200.

1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

Priority of debts.

"200A. (*1*) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

"(*a*) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;

"(*b*) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and

"(*c*) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work,

in

[*Price, one anna and three pies.*]

in respect of services rendered to the company within the two months next before the commencement of the winding-up.

"(*2*) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

"(*3*) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator."

Govt. of India Central Printing Office.—No. 520 L. D.—18-2-87.—3,700.

ACT No. VII OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 11th February, 1887.)

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

Title. 1. This Act may be called the Suits Valuation Act, 1887.

PART I.

SUITS RELATING TO LAND.

Extent and commencement of Part I. 2. This Part shall extend to such local areas, and come into force therein on such dates as the Governor General in Council, by notification in the Gazette of India, directs.

Power for Local Government to make rules determining value of land for jurisdictional purposes. 3. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the VII of 1870 Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (*d*).

(*2*) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

Valuation of relief in certain suits 4. Where a suit mentioned in the Court-fees Act, VII of 1870. 1870, section 7, paragraph iv, or Schedule II, article 17,

[*Price one anna and nine pies.*]

relating to land not to exceed the value of the land.

17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

Making and enforcement of rules.

5. (*1*) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(*2*) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

Repeal of section 14 of the Madras Civil Courts Act, 1873.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories. III of 1873.

PART II.

OTHER SUITS.

Extent and commencement of Part II.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887.

Court-fee value and jurisdictional value to be the same in certain suits.

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (*d*), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same. VII of 1870.

Determination of value of certain suits by High Court.

9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (*d*), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall VII of 1870.

shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

Repeal.

10. Section 32 of the Punjab Courts Act, 1884, is hereby repealed.

PART III.

SUPPLEMENTAL PROVISIONS.

Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.

XIV of 1882.

11. (*1*) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(*a*) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(*b*) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(*2*) If the objection was taken in the manner mentioned in clause (*a*) of sub-section (*1*), but the appellate Court is not satisfied as to both the matters mentioned in clause (*b*) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(*3*) If the objection was taken in that manner and the

the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(*4*) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(*5*) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

Proceedings pending at commencement of Part I or Part II.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

(*a*) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or

(*b*) with respect to any appeal arising out of any such suit.

Government of India Central Printing Office.—No. 521 L, D—15-2-87.—3,700.

ACT No. VIII OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 11th February, 1887.*)

An Act to abolish Military Courts of Requests as established by Indian Military Law.

WHEREAS it is expedient to repeal that portion of the Indian Military Law which relates to Military Courts of Requests and other military tribunals having jurisdiction with respect to actions of a civil nature; It is hereby enacted as follows:—

1. This Act shall come into force on the first day of April, 1887. Commencement.

2. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof. Repeal.

THE SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
Act XI of 1841 .	Military Courts of Requests for Native Officers and Soldiers.	So far as it has not been repealed.
Act XII of 1842 .	Regulation of Military Bázárs and Liabilities of Camp-followers.	So far as it has not been repealed.

THE SCHEDULE

[*Price one anna and six pies.*]

THE SCHEDULE—*continued.*

ENACTMENTS REPEALED—*continued.*

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council—contd.		
Act XXXIII of 1852.	Enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	So far as it has not been repealed.
Act III of 1859 .	Conferment of Civil Jurisdiction in certain cases on Cantonment Joint Magistrates.	So far as it has not been repealed.
Act XII of 1868 .	Suspension of operation of section 17, Act XI, 1841.	The whole.
Act XV of 1874 .	Laws Local Extent Act, 1874.	Clauses (*e*) and (*h*) of section 8; so much of the first schedule as relates to Acts XI of 1841, XII of 1842, XXXIII of 1852 and III of 1859; and so much of the second schedule as relates to Act XIV of 1855.
Act III of 1880 .	Cantonments . . .	Section 8.
Act XIV of 1882.	Code of Civil Procedure .	Clause (*b*) of section 6.
Act of the Governor of Madras in Council.		
Act I of 1866 .	Cantonments.	Section 9, down to and inclusive of the words "provided also that".
Bengal Regulation.		
XX of 1810 .	Military Bázárs. . .	Section 1, from and inclusive of the words "and it has further been deemed expedient, for the ease and security of dealers" down to and inclusive of the words 'such retainers or traders".

THE SCHEDULE—*concluded.*

ENACTMENTS REPEALED—*concluded.*

Number and year.	Subject or title.	Extent of repeal.
1	2	3
	Bombay Regulation.	
XXII of 1827.	Military Authority . .	The following portions, so far as they have not been repealed, namely :— (*a*) the first clause of section 3 ; (*b*) the first twenty-seven words of the second clause of that section ; (*c*) section 7 ; and (*d*) section 32.

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THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

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ACT No. IX OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 24th February, 1887.*)

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Provincial Small Cause Courts Act, 1887.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on the first day of July, 1887.

Repeal.

2. (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) But all Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction*

of

of the High Courts of Judicature), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(*3*) Any enactment or document referring to Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Savings.

3. Nothing in this Act shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Panchâyats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879; or XVII of 1879.

(*c*) any local law or any special law other than the Code of Civil Procedure. XIV of 1882.

Definition.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

Establishment of Courts of Small Causes.

5. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, establish a Court of Small Causes at any

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any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.

(*2*) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

Judge.

6. (*1*) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(*2*) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

Appointment of times of sitting in certain circumstances.

7. (*1*) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(*2*) Notice of the times shall be published in such manner as the High Court from time to time directs.

Additional Judge.

8. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(*2*) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(*3*) The Judge may withdraw from the Additional Judge any business pending before him.

(*4*) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A

Suspension and removal of Judges.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

Power to require two Judges to sit as a bench.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

Decision in case heard by a bench.

11. (*1*) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference. XIV of 1882.

(*2*) If they differ on any matter other than a matter specified in sub-section (*1*), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(*3*) For the purposes of sub-section (*2*), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

Registrar.

12. (*1*) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(*2*) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(*3*) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of

of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(*4*) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(*5*) A Registrar may be suspended or removed from office by the Local Government.

Other ministerial officers.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

Duties of ministerial officers.

14. (*1*) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(*2*) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

(Chapter III.—Jurisdiction of Courts of Small Causes.—Sections 15-16. Chapter IV.—Practice and Procedure.—Section 17.)

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

Cognizance of suits by Courts of Small Causes.

15. (*1*) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(*2*) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(*3*) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

Exclusive jurisdiction of Courts of Small Causes.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

Application of the Code of Civil Procedure.

17. (*1*) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, ~~as amended by this Act~~, shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits : XIV of 1882 1891

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall,

shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(*2*) Where a person has become liable as surety under the proviso to sub-section (*1*), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

Trial of suits by Registrar.

18. (*1*) Suits cognizable by the Registrar under section 12, sub-sections (*3*) and (*4*), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(*2*) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

Admission, return and rejection of plaints by Registrar.

19. (*1*) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(*2*) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (*1*) If

Passing of decrees by Registrar on confession.

20. (*1*) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(*2*) Where a decree has been passed by the Registrar under sub-section (*1*), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

Execution of decrees by Registrar.

21. (*1*) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(*2*) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (*1*), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(*3*) The period of fifteen days mentioned in sub-section (*2*) shall be computed in accordance with the provisions

XV of 1877. provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

Adjournment of cases by chief ministerial officer.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

Return of plaints in suits involving questions of title.

23. (*1*) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(*2*) When a Court returns a plaint under sub-section (*1*), it shall comply with the provisions of the
XIV of 1882. second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes
XV of 1877. of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Appeals from certain orders of Courts of Small Causes.

24. Where an order specified in section 588,
XIV of 1882. clause (*29*), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

26. In

Amendment of the second schedule to the Code of Civil Procedure.

26. In the second schedule to the Code of Civil Procedure— XIV of 1882.

(*a*) for "CHAPTER VIII.—Section 111, Set-off" the following shall be substituted, namely:—

"CHAPTER VIII.—Of Written Statements and Set-off";

(*b*) the following shall be inserted between the portion of the schedule referring to CHAPTER XV and that referring to CHAPTER XVII, namely:—

"CHAPTER XVI.—Of Affidavits";

(*c*) in the particulars against CHAPTER XIX, for "275 to 280 (both inclusive), 283" the following shall be substituted, namely:—

"275 to 283 (both inclusive)";

(*d*) for "CHAPTER XLVII.—Of Review of Judgment" the following shall be substituted, namely:—

"CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630"; and

(*e*) for "CHAPTER XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive)" the following shall be substituted, namely:—

"CHAPTER XLIX.—Miscellaneous."

Finality of decrees and orders.

27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.

28. (*1*) A Court of Small Causes shall be subject to the administrative control of the District Court and

and to the superintendence of the High Court, and shall—

(*a*) keep such registers, books and accounts as the High Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(*2*) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

Saving of power to appoint Judge of Court of Small Causes to other office.

31. (*1*) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(*2*) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

32. (*1*) So

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (*1*) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(*2*) Nothing in sub-section (*1*) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

Application of Act and Code to Court so invested as to two Courts.

33. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts. XIV of 1882.

Modification of Code as so applied.

34. Notwithstanding anything in the last two foregoing sections,—

(*a*) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(*b*) when

(*b*) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

XIV of 1882. the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

Continuance of proceedings of abolished Courts.

35. (*1*) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(*2*) Nothing in this section applies to cases for XIV of 1882. which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Amendment of Indian Limitation Act.

36. In the third division of the second schedule to XV of 1877. the Indian Limitation Act, 1877,—

(*a*) after No. 160 the following shall be inserted, namely:—

"160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.	Ditto.	The date of the decree or order."

and (*b*) in No. 173, the words, figures and letter "No. 160 A and" shall be inserted before the word and figures "No. 162."

Publication of certain orders.

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE.

(The First Schedule.—Enactments repealed. The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XI of 1865 .	Mufassal Small Cause Courts Act.	So much as has not been repealed.
Act VI of 1871 .	Bengal Civil Courts Act.	Section 30.
Act III of 1873 .	Madras Civil Courts Act.	Section 29, paragraph one.
Act XV of 1874	Laws Local Extent Act.	So much of the first schedule as relates to Acts XI of 1865 and X of 1867.
Act XII of 1881 .	North-Western Provinces Rent Act.	In section 2, the words and figures "and Act No. XI of 1865, section 52."
Regulation I of 1877.	Ajmere Courts Regulation.	Section 33.

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(*See section 15.*)

(1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office;

(3) a

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;

(4) a suit for the possession of immoveable property or for the recovery of an interest in such property;

(5) a suit for the partition of immoveable property;

(6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage;

(7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property;

(8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto;

(9) a suit concerning the liability of land to be assessed to land-revenue;

(10) a suit to restrain waste;

(11) a suit for the determination or enforcement of any other right to or interest in immoveable property;

(12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office;

(13) a suit to enforce payment of the allowance or fees respectively called *málikána* and *kakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution;

(14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation; X of 1870.

(15) a suit for the specific performance or rescission of a contract;

(16) a suit for the rectification or cancellation of an instrument;

(17) a suit to obtain an injunction;

(18) a

(18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;

(19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure; XIV of 1882.

(20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure;

(21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian;

(22) a suit for property which the plaintiff has conveyed while insane;

(23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;

(24) a suit to contest an award;

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India;

(26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;

(27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets; X of 1865. V of 1881.

(28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;

(29) a suit—

(*a*) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution;

(*b*) for an account of partnership-transactions; or

(*c*) for a balance of partnership-account, unless the balance has been struck by the parties or their agents;

(30) a

(*The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.*)

(30) a suit for an account of property and for its due administration under decree;

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant;

(32) a suit for a general average loss or for salvage;

(33) a suit for compensation in respect of collision between ships;

(34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;

(35) a suit for compensation—

(*a*) for loss occasioned by the death of a person caused by actionable wrong;

(*b*) for wrongful arrest, restraint or confinement;

(*c*) for malicious prosecution;

(*d*) for libel;

(*e*) for slander;

(*f*) for adultery or seduction;

(*g*) for breach of contract of betrothal or promise of marriage;

(*h*) for inducing a person to break a contract made with the plaintiff;

(*i*) for obstruction of an easement or diversion of a watercourse;

(*j*) for illegal, improper or excessive distress or attachment;

(*k*) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code; or

(*l*) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;

(36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;

(37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce;

(38) a suit relating to maintenance;

(39) a

(39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;

(40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family;

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property;

(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

Government of India Central Printing Office.—No. 562 L. D.—3-3-87.—3,700.

THE NATIVE PASSENGER SHIPS ACT, 1887.

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[*Price six annas and six pies.*]

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SCHEDULE.—ENACTMENTS REPEALED.

ACT No. X of 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 24th February, 1887.*)

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title.

1. This Act may be called the Native Passenger Ships Act, 1887.

Extent and application.

2. (*1*) It extends to the whole of British India, and applies—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India; and,

(*c*) subject to the exceptions mentioned in sub-section (*2*), to ships carrying as passengers more than thirty natives of Asia or Africa.

(*2*) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or

(v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

(*3*) Notwithstanding anything in sub-sections (*1*) and (*2*), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

Commencement.

3. This Act shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.

Repeal.

4. (*1*) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(*2*) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

5. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "ship" means a ship to which this Act applies:

(*2*) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as

as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(*3*) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(*4*) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(5) "voyage", when used without the prefix "long" or "short", means the whole distance between the ship's port or place of departure and her final port or place of arrival:

(*6*) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(*7*) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

Ships to sail only from places appointed by the Government.

6. (*1*) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(*2*) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (*1*) The

Notice to be given of day of sailing.

7. (*1*) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(*2*) The notice shall be given not less then twenty-four hours before that time.

Power to enter on and inspect ship.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Ship not to sail without two certificates.

9. (*1*) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(*2*) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Contents of certificate A.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Contents of certificate B.

11. The second of the certificates (hereinafter called "certificate B") shall state—

(*a*) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

(*b*) that she has the proper complement of officers and seamen;

(*c*) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which

which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;

(*d*) that the master holds certificate A;

(*e*) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(*f*) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(*g*) such other particulars, if any, as may be prescribed by those rules.

Grant of certificates.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Substitute for certificate A.

13. Where the master of a ship produces to that officer either of the following certificates, namely,—

(*a*) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(*b*) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed

deemed to be a certificate A for the purposes of this Act.

Survey of ship.

14. (*1*) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make:

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (*a*) or clause (*b*), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(*2*) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

15. (*1*) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(*2*) But save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the officer to grant or withhold the certificate.

(*3*) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

16. The

Copy of certificates to be exhibited.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Supply by passengers of their own food.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

CHAPTER III.

Rules for Short Voyages.

Space to be available for passengers.

18. (*1*) For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(*2*) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(*3*) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing

performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(*4*) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

(*a*) the number of passengers so taken on board, and

(*b*) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When

Deaths on voyage.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

Space to be available for passengers.

21. (*1*) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(*2*) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on voyage.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement,

statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking additional passengers at intermediate place.

24. (*1*) In either of the following cases, namely,—

(*a*) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(*b*) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(*2*) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to carry medical officer.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

28. The

Bill of health at Aden.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bond where ship clears for port in Red Sea.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(*b*) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Act.

Power for Local Government to direct medical inspection of passengers.

30. (*1*) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medi-

cal

cal officer to be appointed by that Government for the purpose.

(*2*) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

Penalty for ship unlawfully departing or receiving passengers on board.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (*1*), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (*2*), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

Penalty for opposing entry on or inspection of ships.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not exhibit-

33. If a master or owner without reasonable excuse,

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cuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

ing copy of certificates.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for fraudulent alteration in ship after certificate obtained.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

Penalty for failing to supply passengers with prescribed provisions.

37. (*1*) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number

Penalty for having excessive number of passengers on board.

number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(*2*) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for bringing passengers from foreign port in excess of authorized number.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

Penalty for landing passenger at a place other than that at which he has contracted to land.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. If

Penalty for making voyage in contravention of contract with passengers.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master and owner of certain ships not propelled by steam.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not obtaining bill of health at Aden.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse,

excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master receiving passenger in contravention of section 30.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Procedure.

Adjudication of offences, and levy of fine by distress on ship.

46. (*1*) Offences against this Act shall be punishable by a Magistrate.

(*2*) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Jurisdiction.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Authority to institute proceedings for penalties.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Application of fines.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any

any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

Depositions of absent witnesses.

50. (*1*) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

(*a*) it is authenticated by the signature of the Justice, Magistrate or consular officer;

(*b*) it was made in the presence of the person accused; and

(*c*) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

Supplemental Provisions.

Information to be sent to ports of em-

51. (*1*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf,

barkation and discharge.

behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(*2*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

Report of Consul.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (*1*) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Power for Governor General in Council and Local Government to make rules.

53. (*1*) The Governor General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters :—

(*a*) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;

(*b*) the

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Act to be carried;

(*d*) the boats, anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(*g*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(*h*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(*i*) the access of between-decks passengers to the upper deck; and

(*j*) generally, to carry out the purposes of this Act.

(*2*) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

(*a*) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf; and

(*b*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(*3*) In

(*3*) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Appointment of officers.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Power to declare what shall be deemed "seasons of fair weather" and "long voyages".

55. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather", and, for sailing-ships and steam-ships respectively, a "long voyage" and a "short voyage".

Power to prescribe space to be available for passengers.

56. The Governor General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

Power to exempt ship from provisions of Act.

57. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

(*2*) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty

twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(*See section 4.*)

Number and year.	Title.	Extent of repeal.
VIII of 1876 .	Native Passenger Ships Act, 1876.	The whole.
XVII of 1883 .	Native Passenger Ships Act, 1883.	The whole.
VII of 1884 .	Indian Steam-ships Act, 1884 .	Section 41.

Government of India Central Printing Office.—No. 564 L. D.—3-3-87.—3,700.

ACT No. XI OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th February, 1887.)

An Act to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway.

V of 1879. WHEREAS it is inexpedient that the Indian Railway Act, 1879, so far as it applies to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh, should apply thereto in its entirety; It is hereby enacted as follows:—

Title, extent and commencement

1. (*1*) This Act may be called the Sindh-Pishin Railway Act, 1887.

(*2*) It shall extend to all persons for whom the Governor General in Council has power to make laws and regulations at meetings for that purpose; and

(*3*) It shall come into force at once.

Definition.

2. In the following sections of this Act, "railway" means that part of the Sindh-Pishin section of the North-Western Railway which, whether completed at the commencement of this Act or not, lies beyond the Province of Sindh.

Application of Railway Act.

IV of 1879.

3. (*1*) Unless and until extended under this section, no portion of the Indian Railway Act, 1879, shall apply to any part of the railway.

(*2*) The Governor General in Council may, by notification in the Gazette of India, extend to the railway or any part thereof such portions of that Act as he thinks fit.

(*3*) In extending any portion of that Act to the railway or any part thereof the Governor General in Council

[*Price one anna and three pies.*]

Council may extend it subject to such modifications as he thinks fit.

Carriage of passengers and property permissive only.

4. (*1*) No person shall be entitled, as of right, to be carried on the railway or to have property carried thereon.

(*2*) But the carriage of passengers and property on the railway shall be permitted subject to such conditions and restrictions as the Governor General in Council may prescribe.

Exemption of the Government from liability for injury or loss.

5. Where any person or property is permitted to be carried on the railway, the Government shall not be responsible for any injury which may happen to the person, or for any loss or damage which may occur in respect of the property, unless the injury happens, or the loss or damage occurs, on a part of the railway with respect to which the Governor General in Council has, by notification in the Gazette of India, announced that the Government accepts responsibility, to such extent as may be described in the notification, for injury happening, or loss or damage occurring, thereon.

Government of India Central Printing Office.—No. 565 L. D.—3-3-87.—3,700.

THE BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS ACT, 1887.

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[*Price five annas.*]

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ACT No. XII OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 11th March, 1887.*)

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

(*2*) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, ~~and except the Jhansi Division~~; and

(*3*) It shall come into force on the first day of July, 1887.

Repeal.

VI of 1871.

2. (*1*) The Bengal Civil Courts Act, 1871, and Act No. XIX of 1877 (*to enable certain District Judges to suspend and remove certain ministerial officers, and for other purposes*), section 1, are hereby repealed.

(*2*) ~~But~~ all Courts constituted, appointments, nominations,

nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871, or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published, shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(*3*) Any enactment or document referring to the Bengal Civil Courts Act, 1871, or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the following classes of Civil Courts under this Act, namely:—

(*1*) the Court of the District Judge;

(*2*) the Court of the Additional Judge;

(*3*) the Court of the Subordinate Judge; and

(*4*) the Court of the Munsif.

Number of District Judges and Subordinate Judges.

4. The Local Government may, with the previous sanction of the Governor General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed.

Number of Munsifs.

5. The Local Government may, subject to the control of the Governor General in Council, alter the number of Munsifs now fixed:

Provided that, except in the case of Munsifs whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of Munsifs now fixed shall not be made by the Local Government without the previous sanction of the Governor General in Council.

Vacancies among District or Sub-

6. (*1*) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation

resignation or removal of the Judge or other cause, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government may fill up the vacancy or appoint the additional District Judges or Subordinate Judges, as the case may be. ordinate Judges.

(*2*) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

7. (*1*) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly. Vacancies among Munsifs.

(*2*) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

(*3*) When rules have been made under sub-section (*2*), a person shall not be nominated under sub-section (*1*) unless he possesses the qualifications required by the rules.

8. (*1*) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite. Additional Judges.

(*2*) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge

charge of those functions, they shall exercise the same powers as the District Judge.

Administrative control of Courts.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Temporary charge of District Court.

10. (*1*) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(*2*) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of proceedings on vacation of office of Subordinate Judge.

11. (*1*) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(*2*) Proceedings transferred under sub-section (*1*) shall be disposed of as if they had been instituted in the Court to which they are so transferred:

(*3*) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (*1*) to his own or any other Court.

(*4*) For

(*4*) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (*1*), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary charge of office of Munsif.

12. (*1*) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7 or his appointment is cancelled by the District Judge.

(*2*) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix local limits of jurisdiction of Courts.

13. (*1*) The Local Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(*2*) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(*3*) When civil business arising in any local area is assigned by the District Judge under sub-section (*2*) to one of two or more Subordinate Judges or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (*1*).

(*4*) A Judge of a Court of Small Causes appointed

ed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(*5*) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

Place of sitting of Courts.

14. (*1*) The Local Government may, by notification in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

(*2*) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

Vacations of Courts.

15. (*1*) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

(*2*) The list shall be published in the local official Gazette.

(*3*) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

Seals of Courts.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

Continuance of proceedings of Courts ceasing to have jurisdiction.

17. (*1*) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(*2*) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force. XIV of 1882.

CHAPTER III.

CHAPTER III.

ORDINARY JURISDICTION.

Extent of original jurisdiction of District or Subordinate Judge.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure, to all original suits for the time being cognizable by Civil Courts.

XIV of 1882.

Extent of jurisdiction of Munsif.

19. (*1*) Save as aforesaid, and subject to the provisions of sub-section (*2*), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(*2*) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

Appeals from District and Additional Judges.

20. (*1*) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(*2*) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals from Subordinate Judges and Munsifs.

21. (*1*) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(*a*) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(*b*) to the High Court in any other case.

(*2*) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(*3*) Where

(*3*) Where the function of receiving any appeals which lie to the District Judge under sub-section (*1*) or sub-section (*2*) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(*4*) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (*2*) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to transfer to Subordinate Judges appeals from Munsifs.

22. (*1*) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

(*2*) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(*3*) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

Exercise by Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings.

23. (*1*) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(*2*) The proceedings referred to in sub-section (*1*) are the following, namely:—

(*a*) proceedings under Bengal Regulation V, 1799 (*to*

(*to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of persons dying intestate*);

(*b*) proceedings under Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act IX of 1861 (*to amend the law relating to Minors*);

(*c*) applications for certificates under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*);

(*d*) proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, which cannot be disposed of by District Delegates; and

XIV of 1882. (*e*) references by Collectors under section 322C of the Code of Civil Procedure.

(*3*) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

Disposal of proceedings referred to in last foregoing section.

24. (*1*) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge.

(*2*) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further

further appeal from the order of the District Judge is allowed by the law for the time being in force.

Power to invest Subordinate Judges and Munsifs with Small Cause Court jurisdiction.

25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, IX of 1887 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or one hundred rupees in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred.

CHAPTER V.

MISFEASANCE.

Suspension or removal of Judges by Local Government.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge by High Court.

27. (*1*) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(*2*) Whenever the High Court suspends a Subordinate Judge under sub-section (*1*), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension or removal of Munsif by High Court.

28. (*1*) The High Court may appoint a commission for enquiring into alleged misconduct of a Munsif.

(*2*) On receiving the report of the result of the enquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(*3*) The provisions of Act No. XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the

the powers conferred by that Act on the Government being exercised by the High Court.

(*4*) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(*5*) The High Court may, without appointing a commission, remove or suspend a Munsif.

Suspension of Munsif by District Judge.

29. (*1*) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(*2*) Whenever a District Judge suspends a Munsif under sub-section (*1*), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment and removal of ministerial officers of District Courts.

30. District Judges shall appoint the ministerial officers of their Courts, and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of other Courts.

31. (*1*) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

(*a*) in the case of an appointment not likely to last, and not lasting, longer than two months, by those Courts, and

(*b*) in any other case, by the District Judge.

(*2*) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct

conduct or neglect in the performance of the duties of his office.

Appointment and removal of ministerial officers on joint establishments.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely:—

(*a*) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(*b*) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (*a*) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

General powers of District Judge.

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

Transfer of ministerial officers.

34. (*1*) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court.

(*2*) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

Recovery of fines.

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined.

CHAPTER VII.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Power to confer powers of Civil Courts on officers.

36. (*1*) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

(*a*) any officer in the Chutiá Nágpur, Jalpaigori or Darjiling district, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Silhat, or,

(*b*) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(*3*) Where, in the territories mentioned in clause (*a*) of sub-section (*1*), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (*2*) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(*4*) Where the place at which the Court of an officer invested with powers under sub-section (*1*) is to be held has not been fixed under section 14, the Court

may

may be held at any place within the local limits of its jurisdiction.

Certain decisions to be according to Native law.

37. (*1*) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

(*2*) In cases not provided for by sub-section (*1*) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

38. (*1*) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(*2*) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(*3*) When any such suit, proceeding or appeal as is referred to in sub-section (*1*) or sub-section (*2*) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(*4*) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure. XIV of 1882.

(*5*) Nothing in this section shall be deemed to effect the extraordinary original civil jurisdiction of the High Court.

Subordination of Courts to

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative

trative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure, the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge. District Court.

XIV of 1882.

40. (*1*) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887. Application of Act to Provincial Courts of Small Causes.

IX of 1887.

(*2*) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

Government of India Central Printing Office.—No. 639 L. D.—17-3-87.—3,700.

ACT No. XIII OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 11th March, 1887.)

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Electricity Act, 1887.

(*2*) It shall extend to the whole of British India; and

(*3*) It shall come into force on the first day of July, 1887.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "electricity" includes galvanism, magnetism, magneto-electricity and electro-magnetism:

(*2*) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act:

XIII of 1885.

(*3*) "purpose"

[*Price one anna and six pies.*]

(*3*) "purpose" includes any purpose except the transmission of a message: and

(*4*) "vessel" includes anything used for the conveyance by water of human beings or of property.

Notice of intention to supply or use electricity.

3. In either of the following cases, namely:—

(*a*) if a person intends to undertake the business of supplying electricity, or

(*b*) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881, XV of 1881.

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate or, in a presidency-town, to the Commissioner of Police.

Power to make rules.

4. (*1*) The Governor General in Council may make such rules as he thinks expedient—

(*a*) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and

(*b*) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(*2*) The rules may, among other matters, authorise, or empower a Local Government or other authority to authorise, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(*3*) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor General in Council, and shall be of the same force as if enacted by this Act.

(*4*) The

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Penalties.

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without giving the notice required by that section, or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a presidency-town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues.

Exercise for the purposes of the Government of the powers of the telegraph-authority.

6. The Governor General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian Tele-
XIII of 1885. graph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

Government of India Central Printing Office.—No. 633 L. D.—15-3-87.—3,700.

THE INDIAN MARINE ACT, 1887.

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[*Price eight annas.*]

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ACT No. XIV OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 30th June, 1887.)

An Act for the better administration of Her Majesty's Indian Marine Service.

47 & 48 Vic., c. 38.

WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor General of India in Council shall have power, subject to the provisions contained in the 24 & 25 Vic., c. 67. Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service:

Provided that—

(*a*) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits; and

(*b*) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans

or

or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (*1*) This Act may be called the Indian Marine Act, 1887; and

(*2*) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.

Definitions.

2. (*1*) In this Act, unless there is something repugnant in the subject or context,—

(*a*) "person subject to this Act" means a person who is employed or serves in, or belongs to, the Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act:

(*b*) "gazetted

(*b*) "gazetted officer" means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,	Chief engineer,
First grade officer,	Engineer,
Second grade officer,	Assistant engineer, or
Third grade officer,	Clerk:

(*c*) "warrant-officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,	Engine-driver, first class,
Apothecary,	Carpenter,
Assistant apothecary,	Hospital assistant, or
Assistant clerk,	General mess steward:

(*d*) "petty officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,	Tindal of lascars, first class,
Chief syrang, second class,	Tindal of lascars, second class,
Ship's steward,	Tindal of stokers, first class,
Engine-driver, second class,	Tindal of stokers, second class,
Cook on a salary of not less than fifty rupees per mensem,	Cassaub, first class,
	Cassaub, second class, or
General mess butler,	Cook on a salary of less than fifty rupees per mensem:
Syrang of lascars, first class,	
Syrang of lascars, second class,	

(*e*) "superior officer", used with reference to an officer of a rank mentioned in clause (*b*), clause (*c*) or clause (*d*) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(*f*) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons:

(*g*) "enemy"

(*g*) "enemy" includes a pirate or rebel:

(*h*) "Indian Marine Court" means an Indian Marine Court held under this Act:

(*i*) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council: and

(*j*) "prescribed" means prescribed by rules made by the Governor General in Council.

(*2*) If an appointment in the Indian Marine Service is created after the passing of this Act, the Governor General in Council may, by notification published in the Gazette of India at any time after the commencement of this Act, assign to the officer for the time being holding the appointment such place in clause (*b*), clause (*c*) or clause (*d*) of sub-section (*1*) as he thinks fit, and thereupon that officer shall for all the purposes of this Act be deemed to be mentioned in that place, and to be a gazetted officer, warrant-officer or petty officer, as the case may be, and to be the superior officer of any officer mentioned after him in any of the clauses aforesaid, and of any person subject to this Act who is not mentioned in any of those clauses.

Procedure on enrolment.

3. (*1*) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(*a*) cause to be read and explained to him the rules of the service;

(*b*) administer to him an oath of allegiance, and

(*c*) cause him to sign a roll.

(*2*) The rules, oath and roll shall be in prescribed forms.

General power to make rules.

4. In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make rules

rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

CHAPTER II.

Offences and Punishments.

Misconduct in the Presence of the Enemy.

Misconduct of commanding officer in action.

5. If a commanding officer—

(i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or

(ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or

(iii) when capable of making a successful defence, surrenders his vessel to the enemy, or

(iv) in time of action improperly withdraws from the fight,

he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Not pursuing the enemy or not assisting a friend in view.

6. If any officer subject to this Act—

(i) forbears to pursue the chase of any enemy beaten or flying, or

(ii) does not relieve and assist a known friend in view to the utmost of his power, or

(iii) improperly

(iii) improperly forsakes his station,

he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Delaying or discouraging action or service, or deserting post or sleeping on watch.

7. If any person subject to this Act,—

(i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or

(ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Misconduct of subordinate officers and men in action.

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

Corresponding, &c., with the enemy.

9. if any person subject to this Act—

(i) treacherously holds correspondence with or gives intelligence to the enemy, or

(ii) fails

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(ii) fails to make known to the proper authorities any information which he may have received from the enemy, or

(iii) relieves the enemy with any supplies,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Improper communication with the enemy.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Neglect of Duty.

Neglect of duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Mutiny.

Mutiny accompanied by violence.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

(*a*) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned;

(*b*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(*c*) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Mutiny not accompanied by violence.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this

this Act, shall suffer death or such other punishment as is hereinafter mentioned; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Inciting to mutiny.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Mutinous assembly or uttering seditious words.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Concealing traitorous, mutinous or seditious practice, design or words.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Striking or using violence to superior officer.

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Insubordination.

Disobedience or using threatening language to superior officer.

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed

missed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Desertion and Absence without Leave.

Desertion.

19. A person subject to this Act who—

(i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place; or

(ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor General in Council.

Inducing any person to desert.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Breaking out of vessel.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Absence without leave.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel

vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

Miscellaneous Offences.

Drunkenness on boardship or on duty.

23. A person subject to this Act who is guilty of any drunkenness on boardship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Cruelty or misconduct by officer.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Suffering vessel to be lost or imperilled.

25. A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Unlawful taking of goods on board.

26. An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

27. A

Embezzling public stores.

27. A person subject to this Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Arson.

28. A person subject to this Act who unlawfully sets fire to any dockyard, victualling yard, steam-factory yard, arsenal, magazine, building or stores, or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Making false documents.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Malingering or misconduct in hospital.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Creating disturbance on account of complaints.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who,

who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Offences to the prejudice of good order and discipline not otherwise specified.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned:

Provided that, if such act, disorder, or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

Not assisting in arresting offenders.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Contempt of Court.

34. A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

False evidence.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer

suffer imprisonment for a term which may extend to seven years.

Offences punishable by Ordinary Law.

Offences punishable by ordinary law.

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India:

47 & 48 Vic., c. 38.

Provided that, except as authorised by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

Punishments.

Schedule of punishments.

37. (*1*) The following punishments may be inflicted under this Act:—

(*a*) death;

(*b*) penal servitude;

(*c*) dismissal with disgrace from the Indian Marine Service;

(*d*) imprisonment;

(*e*) dismissal from the Indian Marine Service;

(*f*) loss of seniority as an officer for a specified time or otherwise;

(*g*) dismissal from the vessel to which the offender belongs;

(*h*) severe reprimand, or reprimand;

(*i*) disrating a warrant-officer or petty officer or any other person below that rank;

(*j*) forfeiture

(*j*) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(*2*) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to the infliction of punishments.

38. The following regulations shall apply to the infliction of punishments:—

(*1*) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(*2*) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(*3*) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(*4*) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(*5*) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(*6*) Except

(*6*) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (*2*) of this section may extend to two years.

(*7*) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(*8*) When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(*9*) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

Scale of punishments.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Limitation of time for trials.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

CHAPTER III.

JURISDICTION AND POWERS.

Offences cognizable by Criminal

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to

Courts and Indian Marine Courts respectively.

to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table:—

Section of this Act.		Marginal note.	Courts having jurisdiction.
Section	5	Misconduct of commanding officer in action.	Criminal Courts and Indian Marine Courts.
"	6	Not pursuing the enemy or not assisting a friend in view.	
"	7	Delaying or discouraging action or service or deserting post or sleeping on watch.	
"	8	Misconduct of subordinate officers and men in action.	
"	9	Corresponding, &c., with the enemy.	
"	10	Improper communication with the enemy.	
"	11	Neglect of duty	Indian Marine Courts.
"	12	Mutiny accompanied by violence .	Criminal Courts and Indian Marine Courts.
"	13	Mutiny not accompanied by violence .	
"	14	Inciting to mutiny	
"	15	Mutinous assembly or uttering seditious words.	
"	16	Concealing traitorous, mutinous or seditious practice, design or words.	
"	17	Striking or using violence to superior officer.	Indian Marine Courts.
"	18	Disobedience or using threatening language to superior officer.	
"	19	Desertion	Criminal Courts and Indian Marine Courts.
"	20	Inducing any person to desert . .	
"	21	Breaking out of vessel . . .	Indian Marine Courts.
"	22	Absence without leave . . .	
"	23	Drunkenness on boardship or on duty .	
"	24	Cruelty or misconduct by officer . .	
"	25	Suffering vessel to be lost or imperilled	
"	26	Unlawful taking of goods on board .	
"	27	Embezzling public stores . . .	Criminal Courts and Indian Marine Courts.
"	28	Arson	
"	29	Making false documents . . .	
"	30	Malingering or misconduct in hospital .	Indian Marine Courts.
"	31	Creating disturbance on account of complaints.	
"	32	Offences to the prejudice of good order and discipline not otherwise specified.	

Section of this Act.		Marginal note.	Courts having jurisdiction.
Section	33	Not assisting in arresting offenders .	Criminal Courts and Indian Marine Courts.
,,	34	Contempt of Court	
,,	35	False evidence	
,,	36	Offences punishable by ordinary law	Criminal Courts.

Power to pass sentences.

42. Subject as aforesaid—

(*a*) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and

(*b*) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

Jurisdiction and powers of commanding officers.

43. (*1*) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender.

(*2*) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

Place of trial.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

45. Where

Jurisdiction over person ceasing to be subject to Act.

45. Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Case of person charged with an offence cognizable by a Criminal Court.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely:—

(*a*) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court;

(*b*) when no requisition is made under clause (*a*), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

Case of person charged with an offence cognizable by an Indian Marine Court or commanding officer.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

Conflict of jurisdiction.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion

as

as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

Previous conviction or acquittal.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

Application of Act XV of 1869 to Indian Marine Courts.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

XV of 1869.

Powers of Governor General in Council in respect of sentences.

51. The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court on a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

CHAPTER IV.

CHAPTER IV.

INDIAN MARINE COURTS.

Constitution of the Court.

Power to convene Indian Marine Court.

52. (*1*) The following authorities shall have power to convene Indian Marine Courts, namely :—

(*a*) the Governor General in Council ;

(*b*) the Director of Marine ;

(*c*) an officer empowered in that behalf by warrant of the Governor General in Council :

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor General in Council.

(*2*) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

Composition of Indian Marine Court.

53. (*1*) An Indian Marine Court shall consist of a president and not less than two or more than four other members of rank not inferior to that of first grade officer as may be ordered by the convening authority :

Provided that an Indian Marine Court convened under section 52, sub-section (*2*), may be composed of the officer convening the same as president and the two graded officers next in seniority available for the duty.

(*2*) The president of an Indian Marine Court for the trial of a commander shall always be a commander, and two at least of the other officers composing the Court shall be commanders.

(*3*) The

(*3*) The president of an Indian Marine Court for the trial of any person below the grade of commander, except an Indian Marine Court convened under section 52, sub-section (*2*), shall be a commander.

(*4*) A person acting as prosecutor shall not be a member of the Court.

(*5*) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (*1*).

(*6*) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(*7*) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(*8*) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (*2*) or sub-section (*3*), as the case may be, shall take the place of the president without special appointment as such.

(*9*) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

Procedure at the Trial.

Place of sitting of Indian Marine Court.

54. An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

Challenge.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer

officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (*2*), (*3*), (*4*) and (*5*) :

Provided that where the Court is composed as in the proviso to section 53, sub-section (*1*), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

Oaths.

56. (*1*) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner.

(*2*) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

Trial of officers and crew by one Court.

57. When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction or capture of any vessel in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court ; and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

Dissolution of Court on illness of prisoner.

58. (*1*) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved :

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed

deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(*2*) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

X of 1882.

Re-trial of prisoner after dissolution of Court.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (*7*) or sub-section (*9*), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Clearing of Court.

60. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Decision of Court.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote :

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

Summoning witnesses.

62. (*1*) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(*2*) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

63. When

Summary punishment of certain contempts.

63. When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

Confirmation of Findings and Sentences.

Submission of proceedings to confirming authority.

64. (*1*) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

(*2*) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

Confirmation of findings and sentences.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

Confirming authority.

66. (*1*) The confirming authority shall ordinarily be the authority convening the Court.

(*2*) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council.

(*3*) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

67. (*1*) The

Powers of confirming authority.

67. (*1*) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

(*2*) Where the finding only is sent back for revision, the Court may revise the sentence also.

(*3*) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

(*a*) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;

(*b*) suspend for such time as seems expedient the execution of the sentence;

(*c*) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

(*4*) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

Evidence.

Law of evidence applicable.

I of 1872.

68. The Indian Evidence Act, 1872, subject to such modifications therein as the Governor General in Council may, by notification in the Gazette of India, direct, shall apply to all proceedings before Indian Marine Courts,

Preservation of Proceedings.

Preservation of Indian

69. (*1*) The proceedings of all Indian Marine Courts

Marine Court proceedings and grant of copies.

Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

(*2*) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

Power to make Rules respecting Procedure.

Power to make rules respecting procedure.

70. (*1*) The Governor General in Council may make rules to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

(*2*) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882. X of 1882.

CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

Procedure of Criminal Courts beyond British India.

Procedure of Criminal Courts beyond British India.

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

Arrest.

Arrest.

Arrest of offenders.

72. The following rules shall apply to persons subject to this Act when charged with offences under this Act:—

(*1*) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(*2*) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(*3*) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(*4*) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

Power of commanding officer.

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with; but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

Execution of Sentences of Indian Marine Courts and Commanding Officers.

Commencement of sentences of imprisonment.

74. (*1*) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (*2*), be deemed to commence on the day on which the

the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(*2*) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced:

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

Execution of such sentences.

75. (*1*) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(*2*) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(*3*) A person transferred to a prison under sub-section (*2*) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court:

Provided that—

(*a*) when he is a person sentenced to imprisonment by his commanding officer, the commanding

manding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged;

(*b*) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

Savings.

Saving of authority of ordinary Courts.

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

Minor punishments.

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

(*a*) to dismissal, loss of seniority, disrating, forfeiture or stoppages; or

(*b*) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

Amendment of Acts.

X of 1882. The In Act,

Amendment of Act X of 1882, section 54 (Arrest of Deserters).

78. In the Code of Criminal Procedure, 1882, section 54, after the words "Army or Navy" the following shall be inserted, namely:—

"or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service."

79. After

Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy).

79. After section 138 of the Indian Penal Code the following section shall be inserted, namely:— XLV of 1860.

Application of foregoing sections to the Indian Marine Service.

"138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen."

CHAPTER VI.

PROVISIONS OF CIVIL LAW.

Exemption from Process.

Exemption from arrest for debt.

80. (*1*) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them; that is to say:—

(*a*) on account of a criminal charge or conviction;

(*b*) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.

(*2*) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

81. The

81. The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature. Property which cannot be attached.

Property of Deceased Persons and Deserters.

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts:— Disposal of property of deceased persons and deserters.

(*1*) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(*2*) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(*3*) In the case of a deceased person, if the property is not dealt with under clause (*2*), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(*4*) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(*5*) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(*6*) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one

one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

Government of India Central Printing Office.—No. 43 L. D.—27-7-87.—3,000.

ACT No. XV OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th July, 1887.)

An Act for the Regulation of Military Police in Burma.

WHEREAS it is expedient to establish a military police-force in Lower Burma and to amalgamate that force with the military police-force of Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Burma Military Police Act, 1887.

(*2*) It extends to the whole of Burma (inclusive of Upper Burma), except the Shan States: and

(*3*) It shall come into force on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Repeal.

II of 1887.

2. The Upper Burma Military Police Regulation, 1887, is hereby repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "military police-officer" means a person appointed to the Burma police-force under section 7 of Act V of 1861 who has signed the statement in the schedule to the Upper Burma Military Police Regulation, 1887, or to this Act, in accordance with the provisions of that Regulation or of this Act, as the case may be:

II of 1887.

(*2*) "active service" means service at outposts or against hostile tribes or other persons in the field:

(*3*) "Deputy

[*Price three annas.*]

(*3*) "Deputy Commissioner" includes an Assistant Commissioner in charge of a subdivision:

(*4*) "Commandant" means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District Superintendent of Police, and an Assistant District Superintendent of Police in charge of the Police of a district or of a subdivision:

(*5*) "Second-in-command" means a person appointed by the Local Government to be a Second-in-command of Military Police, and includes an Assistant District Superintendent of Police not in charge of the police of a district or of a subdivision: and

(*6*) the expressions "reason to believe", "criminal force", "assault", "fraudulently" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code. XLV of 1860.

Enrolment and discharge of military police-officers.

4. (*1*) Before an officer appointed to the Burma police-force under section 7 of Act V of 1861 is appointed to be a military police-officer, the statement in the schedule shall be read to him in the presence of a Magistrate, Commandant or Second-in-command, and shall be signed by him in acknowledgment of its having been so read to him.

(*2*) Notwithstanding any notice given under section 9 of Act V of 1861, a military police-officer shall not be entitled to be discharged from the Burma police-force except in accordance with the terms of the statement which he has signed under the Upper Burma Military Police Regulation, 1887, or under this Act, as the case may be. II of 1887.

Classes and grades of military police-officers.

5. (*1*). There shall be six classes of military police-officers, namely:—

(i) inspectors,
(ii) subahdars,
(iii) jamadars,
(iv) havildars,
(v) naiks, and
(vi) constables,

and

and such grades in each class as the Local Government may direct.

(*2*) The expression "superior officer" in this Act includes—

(*a*) in relation to a constable, any constable of a higher grade and any naik, havildar, jamadar, subahdar or inspector;

(*b*) in relation to a naik, any naik of a higher grade and any havildar, jamadar, subahdar or inspector;

(*c*) in relation to a havildar, any havildar of a higher grade and any jamadar, subahdar or inspector;

(*d*) in relation to a jamadar, any jamadar of a higher grade and any subahdar or inspector;

(*e*) in relation to a subahdar, any subahdar of a higher grade and any inspector;

(*f*) in relation to an inspector, any inspector of a higher grade; and

(*g*) in relation to any military police-officer, any Second-in-command, Commandant or Deputy Commissioner.

More heinous offences.

6. A military police-officer who—

(*a*) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed

mitted to his charge or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; or

who, while on active service,—

(*e*) disobeys the lawful command of his superior officer; or

(*f*) deserts the service; or,

(*g*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or

(*h*) without authority leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

7. A

Less heinous offences.

7. A military police-officer who—

(*a*) is in a state of intoxication when on or for any duty or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or,

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or,

(*d*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any military police-officer subordinate to him in rank or position; or,

(*h*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made to the injured person and to report the case to the proper authority; or

(*i*) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools; equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person; or

(*j*) malingers

(*j*) malingers, or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or,

(*k*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

who, while not on active service,—

(*l*) disobeys the lawful command of his superior officer; or

(*m*) plunders, destroys or damages any property of any kind; or,

(*n*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or

(*o*) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

Corporal punishment.

8. A military police-officer, not being above the rank of constable, who, while on service at an outpost at the time of a projected attack on that post, or in the field against hostile tribes or other persons, commits any offence specified in either of the two last foregoing sections, may, in lieu of any punishment to which he is liable thereunder, be punished with whipping:

Provided that—

(*a*) the punishment of whipping shall not in any case exceed thirty stripes; and

(*b*) sentence of whipping shall be passed only by a Deputy Commissioner, or, in his absence, by a Commandant invested with the powers of a Magistrate of the first or second class.

Minor punishments.

9. (*1*) A Deputy Commissioner, Commandant or Second-in-command, or an officer commanding a separate detachment or an outpost or in temporary command

command at the headquarters of a district during the absence of the Deputy Commissioner, Commandant and Second-in-command, may, without a formal trial, award to any military police-officer who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

(*a*) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) punishment-drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to quarters.

(*2*) Any one of these punishments may be awarded separately or in combination with any one or more of the others.

Place of imprisonment.

10. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Burma police-force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct, but, when he is not also dismissed from that force, he may, if the convicting officer or Deputy Commissioner so directs, be confined in the quarter-guard or such other place as the convicting officer or Deputy Commissioner may consider suitable.

Conferment of magisterial powers on police-officers.

11. Notwithstanding anything in Act V of 1861 or in any other enactment for the time being in force, the Local Government may invest any police-officer not below the rank of Commandant with the powers of a Magistrate of any class for the purpose of enquiring into or trying any offence committed by a military police-officer and punishable under Act V of 1861 or this Act.

12. (*1*) Subject

Disciplinary and other powers of Commandants and Seconds-in-command of Military Police otherwise than in respect of military police.

12. (*1*) Subject to such rules as the Local Government may make in this behalf, a Commandant or Second-in-command of Military Police shall have, with respect to police-officers appointed to the Burma police-force under section 7 of Act V of 1861 who are not military police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

(*2*) The Local Government may confer on a Commandant or Second-in-command of Military Police, by name or by virtue of his office, any other power of a District Superintendent of Police under Act V of 1861 or any other enactment for the time being in force, or under any rule under any such enactment, and may define the circumstances in which any power so conferred may be exercised by such Commandant or Second-in-command.

Privileges of Commandants and Seconds-in-command of Military Police as police-officers.

13. A Commandant or Second-in-command of Military Police shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of Act V of 1861, section 125 of the Indian Evidence Act, 1872, and any other enactment for the time being in force. I of 1872.

Power to make rules.

14. The Local Government may, as regards the Military Police, make such orders and rules consistent with this Act as it thinks expedient relative to the several matters respecting which the Inspector General of Police, with the approval of the Local Government, may, as regards the rest of the Burma police-force, frame orders and rules under section 12 of Act V of 1861.

THE SCHEDULE.

STATEMENT.

(*See sections 3 and 4.*)

After you have served for three years in the Burma Military Police you may, at any time when not on active service, apply for your discharge, through the Inspector, if any, to whom you may be subordinate, to a Commandant of Military Police or to the

the Deputy Commissioner of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Burma Military Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Burma Military Police ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

(Signature of police-officer in acknowledgment of the above having been read to him.) } *A.B.*

Signed in my presence after I had ascertained that *A. B.* understood the purport of what he signed. } *C. D.*, *Magistrate, Commandant or Second-in-command.*

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THE PUNJAB TENANCY ACT, 1887.

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THE SCHEDULE.—ENACTMENTS REPEALED.

ACT No. XVI OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd September, 1887.)

An Act to amend the Law relating to the Tenancy of Land in the Punjab.

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Tenancy Act, 1887.

(*2*) It extends to the whole of the territories (including the pargana of Spiti) for the time being administered by the Lieutenant-Governor of the Punjab, except the Hazára district; and

(*3*) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

Power to make rules in anticipation of commencement.

2. Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal.

3. The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

4. In

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land;

(*2*) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions:

(*3*) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him:

(*4*) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable:

(*5*) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include—

(*a*) an inferior landowner, or

(*b*) a mortgagee of the rights of a landowner, or

(*c*) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or XVII of 1887.

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it:

(*6*) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land:

(*7*) "tenant" and "landlord" include the predecessors

cessors and successors in interest of a tenant and landlord respectively:

(*8*) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(*9*) "estate", "landowner" and "holding" have the meanings respectively assigned to those words in the Punjab Land-revenue Act, 1887:

XVII of 1887.

(*10*) "land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land-revenue Act, 1887, and includes—

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(*11*) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(*a*) ~~the local rate, if any, payable under the Punjab Local Rates Act, 1878;~~

V of 1878.

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act;

XX of 1883.

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873;

VIII of 1873.

(*d*) the zaildári and village-officers' cesses; and

(*e*) sums payable on account of village-expenses:

(*12*) "village-cess" includes any cess, contribution

tion or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(*13*) "village-officer" means a chief-headman, headman or patwári:

(*14*) "Revenue-officer" or "Revenue Court", in any provision of this Act, means a Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision:

(*15*) "jágírdár" includes any person, other than a village-servant, to whom the land-revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government:

(*16*) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár: XVIII of 1879.

(*17*) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area;

(*18*) "notification" means a notification published by authority of the Local Government in the official Gazette: and

(*19*) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it;

Explanation I.—It includes, among other things,—

(*a*) the construction of wells and other works for the storage or supply of water for agricultural purposes;

(*b*) the

(*b*) the construction of works for drainage and for protection against floods;

(*c*) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;

(*d*) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and

(*e*) the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry;

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement;

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy.

5. (*1*) A tenant—

(*a*) who at the commencement of this Act has for more than two generations in the male line of descent through a grandfather or grand-uncle

grand-uncle and for a period of not less than twenty years been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or

(*b*) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land, or

(*c*) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or

(*d*) who, being jágírdár of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jágírdár, occupied the land while he was jágírdár and has continuously occupied it for not less than twenty years,

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (*c*), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(*2*) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (*a*) of sub-section (*1*).

(*3*) The

(*3*) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir, and relationship by the usage of a religious community.

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.

6. A tenant recorded in a record-of-rights sanctioned by the Local Government before the twenty-first day of October, 1868, as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

Right of occupancy in land taken in exchange.

7. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

Establishment of right of occupancy on grounds other than those expressly stated in Act.

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

Right of occupancy not to be acquired by mere lapse of time.

9. No tenant shall acquire a right of occupancy by mere lapse of time.

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

10. In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

Continuance of existing occupancy-rights.

11. Notwithstanding anything in the foregoing sections of this Chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in

in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table:—

PUNJAB TENANCY ACT, 1868.		THIS ACT.		
FIRST COLUMN.		SECOND COLUMN.		
Section.	Clause.	Section.	Sub-section.	Clause.
5	(1)	5	(1)	(*a*)
5	(2)	5	(1)	(*b*)
5	(3)	5	(1)	(*c*)
5	(4)	5	(1)	(*d*)
6	...	6	...	..
8	..	8	...	...

XXVIII of 1868.

CHAPTER III.

RENT.

Rents generally.

Respective rights of landlord and tenant to produce.

12. (*1*) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(*2*) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(*3*) Except

(*3*) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(*4*) Where rent is taken by division of the produce—

(*a*) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;

(*b*) the landlord shall be entitled to be present at, and take part in, the division of the produce; and

(*c*) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commutation and alteration of rent.

13. (*1*) Where rent is taken by any of the following methods, namely :—

(*a*) by division or appraisement of the produce,

(*b*) by rates fixed with reference to the nature of the crops grown,

(*c*) by a rate on a recognized measure of area,

(*d*) by a rent in gross on the tenancy, or

(*e*) partly by one of the methods specified in clauses (*a*), (*b*) and (*c*) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(*2*) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), or by the method specified in clause (*d*) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

14. Any

Payments for land occupied without consent of landlord.

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Collection of rents of undivided property.

15. When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Produce-rents.

Presumption with respect to produce removed before division or appraisement.

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

Appointment of referee for division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of assessors and procedure of referee.

18. (*1*) When a Revenue-officer appoints a referee under the last foregoing section, he may, in his discretion, give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisement.

(*2*) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

(*3*) Before

(*3*) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex parte*.

(*4*) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

Procedure after division or appraisement.

19. (*1*) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(*2*) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(*3*) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(*4*) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

Enhancement of produce-rents of occupancy tenants.

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent:

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for irrigated or flooded land

land of a similar description and with similar advantages.

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of a similar description and with similar advantages.

Cash-rents paid by Tenants having Right of Occupancy.

Enhancement of cash-rents of occupancy-tenants.

22. (*1*) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognized measure of area or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that, after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is—

(*a*) if the tenant belongs to the class specified in clause (*a*) of sub-section (*1*) of section 5, less than two annas per rupee of the amount of the land-revenue;

(*b*) if he belongs to any of the classes specified in clauses (*b*), (*c*) and (*d*) of that sub-section, less than six annas per rupee of the amount of the land-revenue;

(*c*) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

(*2*) In a case to which sub-section (*1*) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land-revenue, as the case may be, in addition to

to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon.

Reduction of rents referred to in the last foregoing section.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

General Provisions relating to Suits for Enhancement or Reduction of Rent.

Enhancement and reduction of rent by suit.

24. (*1*) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy.

(*2*) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally reassessed and the revenue payable in respect of that land has been increased.

XXVIII of 1868.

(*3*) Subject to the provisions of sub-section (*2*), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely :—

(*a*) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section,

(*b*) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent,

unless the land or some part of the land comprised in his tenancy, not having been irrigated or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

Discretion as to extent of

25. In enhancing or reducing the rent of any land

enhancement or reduction.

land under the foregoing provisions of this Chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the land-revenue of the land and the rates and cesses chargeable thereon.

Time for enhancement or reduction to take effect.

26. (*1*) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

(*2*) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

Adjustment of Rents expressed in terms of the Land-revenue.

Adjustment of rents expressed in terms of the land-revenue.

27. (*1*) Where the rent of a tenancy is the whole or a share of the land-revenue thereof, with or without an addition in money, kind or service, and the land-revenue of the holding in which the tenancy is situate is altered, a Revenue-officer having authority under section 56 of the Punjab Land-revenue Act, 1887, to determine the land-revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent. XVII of 1887.

(*2*) Where an addition referred to in sub-section (*1*) is a percentage fixed with reference to the land-revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(*3*) The sum or sums determined under the foregoing sub-sections, together with any addition previously

viously payable other than the additions referred to in sub-section (*2*), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(*4*) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Alteration of Rent on Alteration of Area.

Alteration of rent on alteration of area.

28. (*1*) Every tenant shall—

(*a*) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(*b*) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely :—

(*a*) the origin and conditions of the tenant's occupancy, for instance, whether the rent

was

was a rent in gross for the entire tenancy;

(*b*) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(*c*) the length of time during which there has been no dispute as to rent or area.

(*3*) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

(*4*) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Remission.

Remission of rent by Courts decreeing arrears.

29. Notwithstanding anything in the foregoing sections of this Chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

Remission and suspension of rent consequent on like treatment of land-revenue.

30. (*1*) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been

been remitted or suspended bears to the whole of the land-revenue payable in respect of the land.

(*2*) An order passed under sub-section (*1*) shall not be liable to be contested by suit in any Court.

(*3*) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended.

(*4*) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(*5*) If the landlord collects any rent of which the payment has been remitted, or before the expiration of the period of suspension collects any rent of which the payment has been suspended, the whole of the land-revenue remitted or suspended in his favour shall become immediately payable by him.

(*6*) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land-revenue.

Deposits.

Power to deposit rent in certain cases with Revenue-officer.

31. In either of the following cases, namely :—

(*a*) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant,

(*b*) when a tenant is in doubt as to the person entitled to receive rent payable in money,

the

the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

32. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(*3*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Recovery of Rent from attached Produce.

Recovery of rent from attached produce.

33. (*1*) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application and

(*b*) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(*2*) The

BENGAL SECRETARIA LIBRARY.

(*2*) The Revenue-officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(*3*) The finding of the Revenue-officer under subsection (*2*) shall have the force of a decree in a suit between the landlord and the tenant.

Leases for Period exceeding Term of Assessment of Land-revenue.

Treatment of leases for period exceeding or equal to term of assessment of land-revenue.

34. (*1*) Where a lease has been granted, or an agreement has been entered into, by a landowner in respect of any land assessed to land-revenue, fixing for a period exceeding the term for which the land-revenue has been assessed the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

(*a*) at the option of the landowner if the land-revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the landowner, determines to be fair and equitable; and

where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement—

(*b*) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as a Rev-

enue

enue Court, on the suit of the tenant, determines to be fair and equitable.

(*2*) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT.

Relinquishment.

Relinquishment by tenant for a fixed term.

35. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

Relinquishment by any other tenant.

36. (*1*) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(*2*) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (*1*), apply to a Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(*3*) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

37. A

Relinquishment of part only of a tenancy.

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

Abandonment.

Abandonment of tenancy by occupancy-tenant.

38. If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

Ejectment.

LIABILITY TO EJECTMENT.

Grounds of ejectment of occupancy-tenant.

39. A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely :—

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(*c*) that a decree for an arrear of rent in respect of the tenancy has been passed against him and remains unsatisfied.

Grounds of ejectment of tenant for a fixed term.

40. A tenant not having a right of occupancy, but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely :—

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where

(*b*) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(*c*) on any ground which would justify ejectment under the contract, decree or order.

Ejectment of tenant from year to year.

41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

PROCEDURE ON EJECTMENT.

Restriction on ejectment.

42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment except in the following cases, namely:—

(*a*) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;

(*b*) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.

Application to Revenue-officer for ejectment.

43. In any such case as is mentioned in clause (*a*) or clause (*b*) of the last foregoing section, the landlord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

Ejectment for failure to satisfy decree for arrear of rent.

44. (*1*) On receiving the application in any such case as is mentioned in clause (*a*) of section 42 the Revenue-officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount

amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

(*2*) If the amount is not so paid, the Revenue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

Ejectment of tenant from year to year by notice.

45. (*1*) On receiving the application of the landlord in any such case as is mentioned in clause (*b*) of section 42, the Revenue-officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(*2*) A notice under sub-section (*1*) shall not be served after the fifteenth day of November in any year.

(*3*) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(*4*) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment he should, within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(*5*) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue-officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the

the payment of compensation, order the ejectment of the tenant:

Provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(*6*) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

Power to make rules.

46. The Financial Commissioner may make rules prescribing—

(*a*) the form and language of applications and notices under the two last foregoing sections; and

(*b*) the manner in which those applications and notices are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT.

Time for ejectment.

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under section 44, the officer making the order otherwise directs.

Relief against forfeiture.

48. (*1*) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (*a*) and (*b*) of section 39 or of section 40 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(*2*) The

(*2*) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (*1*).

(*3*) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Rights of ejected tenants in respect of crops and land prepared for sowing.

49. (*1*) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(*2*) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (*1*) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(*a*) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (*1*) such rent as may be fair and equitable, or

(*b*) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(*3*) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing

ing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION.

Relief for wrongful dispossession or ejectment.

50. In either of the following cases, namely :—

(*a*) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(*b*) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Bar of relief by suit under section 9, Act I, 1877.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof. I of 1877.

Power to vary Dates prescribed by this Chapter.

Power for Local Government to fix dates for certain purposes.

52. (*1*) The Local Government may, for all or any of the territories under its administration, by notification fix for the purposes of sections 36, 45 and 47, or of any of those sections, any other dates instead of those specified therein.

(*2*) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

CHAPTER V.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

Private transfer of right of occupancy under section 5 by tenant.

53. (*1*) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in this section.

(*2*) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(*3*) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(*4*) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(*5*) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(*6*) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(*7*) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

(*8*) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he

he may receive from any Court, pay the purchase-money to the tenant.

(*9*) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(*10*) Where there are several landlords of a tenancy, any one of them may be deemed to be the landlord for the purposes of this section.

(*11*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue-officer.

Procedure on foreclosure of mortgage of right of occupancy under section

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Sale of right of occupancy under section 5 in execution of decree.

55. (*1*) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(*2*) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

56. A

Transfer of right of occupancy under any other section than section 5.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract.

Rights and liabilities of transferee of right of occupancy.

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged had and was subject to.

Subletting.

58. (*1*) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(*2*) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.

Succession.

Succession to right of occupancy.

59. (*1*) When a tenant having a right of occupancy in any land dies, the right shall devolve—

(*a*) on his male lineal descendants, if any, in the male line of descent, and,

(*b*) failing such descendants, on his widow, if any, until she dies or re-marries or abandons the land or is under the provisions of this Act ejected therefrom, and,

(*c*) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (*b*) of this sub-section, on his male collateral relatives in

in the male line of descent from the common ancestor of the deceased tenant and those relatives:

Provided, with respect to clause (*c*) of this sub-section, that the common ancestor occupied the land.

(*2*) As among descendants and collateral relatives claiming under sub-section (*1*), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(*3*) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift or mortgage, or by sub-lease for a term exceeding one year.

(*4*) If the deceased tenant has left no such persons as are mentioned in sub-section (*1*) on whom his right of occupancy may devolve under that sub-section, the right shall be extinguished.

Irregular Transfers.

Irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this Chapter shall be voidable at the instance of the landlord.

CHAPTER VI.

Improvements and Compensation.

Improvements by Landlords.

Improvements by landlords on tenancies of occupancy-tenants.

61. (*1*) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(*2*) If a landlord desires to make such an improvement he may apply to the Collector for permission to make

make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(*3*) In making an order on an application under sub-section (*2*) the Collector shall be guided by such rules, if any, as the Local Government may, with the previous sanction of the Governor General in Council, make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (*1*) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(*2*) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(*3*) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(*4*) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent,—

(*a*) in the case of a tenant to whom sub-section (*2*) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages, and

(*b*) in the case of a tenant to whom sub-section (*3*) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(*5*) Sections

(*5*) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by Tenants.

Title of occupancy-tenant to make improvements.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of tenants not having right of occupancy to make improvements.

64. (*1*) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(*2*) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

Improvements made before commencement of this Act.

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements begun in anticipation of ejectment.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Tender of lease for twenty years to tenant to be a bar to right to compensation.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

68. Subject

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

68. Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Compensation for Disturbance of Clearing Tenants.

Compensation for disturbance of clearing tenants.

69. (*1*) A tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land:

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(*2*) If rent has been paid for the land by division or appraisement of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof.

Procedure in determining Compensation.

Determination of compensation by Revenue Courts.

70. (*1*) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(*2*) If

(*2*) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

Determination of compensation by Revenue-officers.

71. In either of the following cases, namely:—

(*a*) when a notice has been served on a tenant under section 44,

(*b*) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected,

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45, as the case may be, to determine the amount of compensation due to him for improvements, or for disturbance, or for both, and the Revenue-officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

Matters to be regarded in assessment of compensation for improvements.

72. In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue-officer shall have regard to—

(*a*) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;

(*b*) the condition of the improvement and the probable duration of its effects;

(*c*) the labour and capital required for the making of such an improvement;

(*d*) any reduction or remission of rent or other advantage

advantage allowed to the tenant by the landlord in consideration of the improvement; and

(*e*) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

Form of compensation.

73. (*1*) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

(*2*) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

Relief in case of Ejectment before Determination of Compensation.

Relief in case of ejectment before determination of compensation.

74. (*1*) If from any cause the amount of compensation payable to a tenant—

(*a*) under this Chapter for improvements or disturbance; or

(*b*) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(*2*) An order made under sub-section (*1*) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VII.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

Revenue-officers.

75. (*1*) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land-revenue Act, 1887, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act. XVII of 1887.

(*2*) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land-revenue Act, 1887.

Applications and proceedings cognizable by Revenue-officers.

76. (*1*) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had :—

FIRST GROUP.

(*a*) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue;

(*b*) proceedings relating to the remission and suspension of rent under section 30;

(*c*) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;

(*d*) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71;

(*e*) applications

(*e*) applications under section 53 or section 54 for the fixing of the value of a right of occupancy;

(*f*) applications under section 53 or section 54 by landlords for possession of land the right of occupancy in which has become extinct;

(*g*) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP.

(*h*) applications under section 17 with respect to the division or appraisement of produce;

(*i*) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71;

(*j*) applications for the determination—

(i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(ii) under section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP.

(*k*) applications under section 31 by tenants to deposit rent;

(*l*) applications under section 36 for service of notice of relinquishment;

(*m*) applications under section 43 for service of notice of ejectment;

(*n*) applications

(*n*) applications under section 53 or section 54 for service of notice of intended transfer or of intended foreclosure or other enforcement of lien.

(*2*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (*1*);

(*b*) an Assistant Collector of the second grade, not being a Naib-tahsildár, may dispose of any of the applications mentioned in the second and third groups of that sub-section; and

(*c*) a Naib-tahsildár, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

Revenue Courts and suits cognizable by them.

77. (*1*) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(*2*) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(*3*) The following suits shall be instituted in, and heard and determined by Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted:—

FIRST GROUP.

(*a*) suits between landlord and tenant for enhancement

hancement or reduction of rent under section 24;

(*b*) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation of rent;

(*c*) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land-revenue;

SECOND GROUP.

(*d*) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right;

(*e*) suits by a landlord to eject a tenant;

(*f*) suits by a tenant under section 45 to contest liability to ejectment, when notice of ejectment has been served;

(*g*) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation, or for both;

(*h*) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes;

(*i*) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held;

(*j*) suits for sums payable on account of village-cesses or village-expenses;

(*k*) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;

(*l*) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section:

(*m*) suits

(*m*) suits relating to the emoluments of kánúngos, zaildárs, inámdárs or village-officers;

THIRD GROUP.

(*n*) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14;

(*o*) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights;

(*p*) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such.

(*4*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector may hear and determine any of the suits mentioned in sub-section (*3*);

(*b*) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Local Government, any of the suits mentioned in the first group; and

(*c*) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Administrative Control.

Superintendence and control of Revenue-offi-

78. (*1*) The general superintendence and control over all other Revenue-officers and Revenue Courts shall

shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner. cers and Revenue Courts.

(*2*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(*3*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers and Revenue Courts in his district.

79. (*1*) The Financial Commissioner or a Commissioner or Collector may, by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control. Power to distribute business and withdraw and transfer cases.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

Appeal, Review and Revision.

80. Subject to the provisions of this Act and the rules thereunder, an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely:— Appeals.

(*a*) to the Collector when the order or decree is made by an Assistant Collector of either grade;

(*b*) to

(*b*) to the Commissioner when the order or decree is made by a Collector;

(*c*) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that—

(*i*) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Local Government in a suit mentioned in the first group of sub-section (*3*) of section 77 shall lie to the Commissioner and not to the Collector;

(ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say:—

(*a*) when the appeal lies to the Collector—thirty days;

(*b*) when the appeal lies to the Commissioner—sixty days;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

82. (*1*) A Revenue-officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided

Provided as follows:—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

Computation of periods limited for appeals and applications for review.

83. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.

XV of 1877.

Power to call for, examine and revise pro-

84. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or

ceedings of Revenue-officers and Revenue Courts.

or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(*4*) If, after examining a record called for by himself under sub-section (*1*) or submitted to him under sub-section (*3*), the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

(*5*) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the Chief Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(*6*) Except when the Financial Commissioner fixes under sub-section (*5*) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

Procedure.

Procedure of Revenue-officers.

85. (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of

of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land-revenue Act, 1887, with respect to arbitration.

XVII of 1887.

(*4*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances may be made before Revenue-officers as such and not as Revenue Courts.

86. (*1*) Appearances before a Revenue-officer as such, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer

officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

87. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Procedure of Revenue Courts.

88. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before those Courts. XIV of 1882.

(*2*) Until rules are made under sub-section (*1*), and subject to those rules when made and to the provisions of this Act,—

(*a*) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(*b*) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

Power of Revenue-officer or Revenue Court to summon persons.

89. (*1*) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court.

(*2*) A

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require.

Mode of service of summons.

90. (*1*) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognized agent or (*c*) an adult male member of his family who is residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer or Revenue Court so directs, be served on the person named

named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866. XIV of 1866.

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

91. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

92. When a proclamation relating to any land is issued by a Revenue-officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Joinder of tenants as parties to proceedings relating to rent.

93. (*1*) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court and subject to any rules which the Local Government may make in this behalf, be made parties to any proceeding under Chapter III;

(*2*) But a decree or order shall not be made in any such proceeding unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(*3*) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

94. Nothing

XIV of 1882. XIII of 1884.

94. Nothing in section 424 of the Code of Civil Procedure, or in section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act.

Exception of suits under this Act from operation of certain enactments.

95. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to third person.

(*2*) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

(*5*) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the moveable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

Execution of decrees for arrears of rent.

97. A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application

Prohibition of imprisonment of tenants in exe-

cution of decrees for arrears of rent.

cation of his landlord in execution of a decree for an arrear of rent.

Power to refer party to Civil Court.

98. (*1*) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(*2*) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

Power to refer to Chief Court questions as to jurisdiction.

99. (*1*) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the Divisional Judge or Commissioner, or, if he is a Divisional Judge or Commissioner, directly to the Chief Court.

(*2*) On any such reference being made, the Chief Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(*3*) The order of the Chief Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

100. (*1*) In

Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

100. (*1*) In either of the following cases, namely:—

(*a*) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(*b*) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Chief Court.

(*2*) If on perusal of the record it appears to the Chief Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Chief Court may order that the decree be registered in the Court which had jurisdiction.

(*3*) If it appears to the Chief Court, otherwise than on submission of a record under sub-section (*1*), that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the Chief Court may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(*4*) With respect to any proceeding subsequent to decree, the Chief Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(*5*) An order of the Chief Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect

as if it had been made or had by the Court in which the order has required it to be registered.

(*6*) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(*2*) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(*2*) A proceeding had before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

104. When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to

to exercise those powers in that other local area, unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer or Revenue Court.

105. (*1*) The Local Government may by notification confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(*3*) Before conferring powers on the Judge of a Civil Court under sub-section (*1*), the Local Government shall consult the Chief Court.

(*4*) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Power for Financial Commissioner to make rules.

106. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules, consistent with this Act and any other enactment for the time being in force,—

(*a*) determining, notwithstanding anything in any record-of-rights, the number and amount of

of the instalments and the times by and at which rent is to be paid;

(*b*) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land;

(*c*) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English; and

(*g*) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(*2*) Until rules are made under clause (*a*) of sub-section (1), rent shall be payable by the instalments and at the times by and at which it is now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take

take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

107. The power to make any rules under this Act is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.

Powers exerciseable by Financial Commissioner from time to time.

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER VIII.

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS.

Nullity of certain entries in records-of-rights.

109. An entry in any record-of-rights providing—

(*a*) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or

(*c*) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent.

Nullity of certain agreements contrary to the Act.

110. (*1*) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

(*a*) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission

or

or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 5 or section 6, or

(*b*) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(*2*) Nothing in clause (*a*) of sub-section (*1*) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

Saving of other agreements when in writing.

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land-revenue Act, 1887, or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act. XVII of 1887.

Effect of certain entries made in records-of-rights before November 1871.

112. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely:—

(*a*) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce or other procedure of a like nature, or

(*b*) the

(*b*) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE.

See Section 2.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
XXVIII of 1868 .	Punjab Tenancy Act.	The whole.
VIII of 1873 .	Northern India Canal and Drainage Act.	Sections 40 to 43, both inclusive.
XIV of 1875 .	Punjab Judicial Administration Act.	So much as has not been repealed.
XVIII of 1884 .	Punjab Courts Act.	Section 3, clauses (*1*), (*2*), (*4*), (*5*) (*6*) and (*7*); the whole of Chapter V; the last seventeen words of sub-section (*1*) of section 67; section 70 so far as regards Revenue Courts; and section 75.

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THE PUNJAB LAND-REVENUE ACT, 1887.

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[*Price fifteen annas.*]

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THE SCHEDULE.—ENACTMENTS REPEALED.

ACT No. XVII OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd September, 1887.)

An Act to amend and declare the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Land-revenue Act, 1887.

(*2*) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab, including the pargana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act, any Regulation in force under the provisions of the Statute 33 Victoria, chapter 3, section 1, in any portion of those territories; and

(*3*) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

(*4*) Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be exercised at any time.

time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal. **2.** (*1*) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

(*2*) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done under any of the repealed enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

Definitions. **3.** In this Act, unless there is something repugnant in the subject or context,—

(*1*) "estate" means any area—

(*a*) for which a separate record-of-rights has been made; or

(*b*) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(*c*) which the Local Government may, by general rule or special order, declare to be an estate:

(*2*) "landowner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who

is

is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate:

(*3*) "holding" means a share or portion of an estate held byone landowner or jointly by two or more landowners:

(*4*) "rent", "tenant", "landlord" and "tenancy" have the meanings respectively assigned to those words in the Punjab Tenancy Act, 1887:

XVI of 1877.

(*5*) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions:

(*6*) "land-revenue" includes assigned land-revenue and any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(*7*) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(*8*) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(*9*) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(*a*) the local rate, if any, payable under the Punjab Local Rates Act, 1878;

1878.

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act;

XX of 1883.

(*c*) any

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873; VIII of 1873.

(*d*) the zaildári and village-officers' cesses; and

(*e*) sums payable on account of village-expenses:

(*10*) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(*11*) "village-officer" means a chief-headman, headman or patwári:

(*12*) "Revenue-officer", in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision:

(*13*) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár: XVIII of 1879.

(*14*) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(*15*) "notification" means a notification published by authority of the Local Government in the official Gazette:

(*16*) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract: and

(*17*) "survey-mark" includes boundary-mark.

Exclusion of certain land from operation of Act.

4. (*1*) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(*2*) A Revenue-officer may define for the purposes of this Act the limits of any such land.

5. The

Power to vary limits and alter number of tahsils, districts and divisions.

5. The Local Government may by notification vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may by notification alter the number of those tahsils and, with the previous sanction of the Governor General in Council, the number of those districts and divisions.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Classes of Revenue-officers.

6. (*1*) There shall be the following classes of Revenue-officers, namely :—

(*a*) the Financial Commissioner;

(*b*) the Commissioner;

(*c*) the Collector;

(*d*) the Assistant Collector of the first grade; and

(*e*) the Assistant Collector of the second grade.

(*2*) The Deputy Commissioner of a district shall be the Collector thereof.

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildár to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-tahsildár to be an Assistant Collector of the second grade.

(*4*) Appointments under sub-section (*3*) shall be by notification, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(*5*) Subject to the provisions of this Act the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts respectively in which they are for the time being employed.

7. (*1*) There

Financial Commissioner.

7. (*1*) There shall be one or more Financial Commissioners, who shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Where more Financial Commissioners than one have been appointed, the Local Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(*3*) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required by rules under the last foregoing sub-section to consider and dispose of collectively, the following rules shall apply, namely:—

(*a*) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed: and

(*b*) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

(*4*) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissoners as the rules for the time being in force under sub-section (*2*) may require.

(*5*) The

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XVIII of 1884.

(5) The second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had jurisdiction on and after the first day of November, 1884, to make any decree or order or dispose of any other business which might have been made or disposed of by the other Financial Commissioner.

Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

Appointment of Tahsildárs and Naib-tahsildárs.

9. The Local Government shall fix the number of Tahsildárs and Naib-tahsildárs to be appointed, and the Financial Commissioner may make rules for their appointment and removal.

Powers of Revenue-officers.

10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may by notification determine the functions to be discharged under this Act by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

11. (*1*) The Financial Commissioner shall be subject to the control of the Local Government.

(*2*) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(*3*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(*4*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and

12. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such

withdraw and transfer cases.

such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

Appeals.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely:—

(*a*) to the Collector when the order is made by an Assistant Collector of either grade;

(*b*) to the Commissioner when the order is made by a Collector;

(*c*) to the Financial Commissioner when the order is made by a Commissioner:

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

14. Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say:—

(*a*) when the appeal lies to the Collector—thirty days;

(*b*) when

(*b*) when the appeal lies to the Commissioner—sixty days;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

15. (*1*) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:

Provided as follows:—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

16. (*1*) The

Power to call for, examine and revise proceedings of Revenue-officers.

16. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(*4*) The Financial Commissioner may in any case called for by himself under sub-section (*1*) or reported to him under sub-section (*3*) pass such order as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

Power to make rules as to procedure.

17. (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered

ed to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue-officers.

18. (*1*) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Power of Revenue-officer to summon persons.

19. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

Mode of service of summons.

20. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his

his recognized agent or (*c*) an adult male member of his family usually residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866. XIV of 1866.

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

21. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other

other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates. Proclamation.

Supplemental Provisions.

23. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed. Place of sitting.

(*2*) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

24. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers. Holidays.

(*2*) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act. Discharge of duties of Collector dying or being disabled.

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed. Retention of powers by Revenue-officers on transfer.

27. (*1*) The Local Government may by notification confer on any person— Conferment of powers of Revenue-officer.

(*a*) all or any of the powers of a Financial Commissioner,

missioner, Commissioner or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector may be invested thereunder,

and may by notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the local Government, shall for all purposes connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(*3*) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE-OFFICERS.

Rules respecting kánúngos, zaildárs, inámdárs and village-officers.

28. (*1*) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kánúngos, zaildárs, inámdárs and village-officers.

(*2*) Rules under sub-section (*1*) may direct that the emoluments of a zaildár, inámdár or village-officer shall be such a percentage payable out of the land-revenue as may be prescribed by the rules, and that, where the land-revenue has been released, compounded for or redeemed, the percentage shall be a charge payable by the person who would be liable for the land-revenue if it had not been released, compounded for or redeemed.

29. (*1*) The

Village-officers' cess.

29. (*1*) The Local Government may by notification impose on any estate, or on all or any estates in any local area, a cess, to be called the village-officers' cess, at a rate not exceeding one anna for every rupee of the annual value, for remunerating village-officers and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(*2*) "Annual value" in the last foregoing sub-section has the meaning assigned to that expression in the Punjab District Boards Act, 1883.

XX of 1883.

(*3*) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(*4*) All cesses now levied in any local area for the purposes mentioned in sub-section (*1*) shall be deemed to have been lawfully imposed and shall, until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

Restriction on attachment or assignment of remuneration of kánúngos, zaildárs, inámdárs and village-officers.

30. (*1*) The emoluments of a kánúngo, zaildár, inámdár or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(*2*) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void unless it is authorized by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Record-of-rights and documents included therein.

31. (*1*) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(*2*) The

(*2*) The record-of-rights for an estate shall include the following documents, namely:—

(*a*) statements showing, so far as may be practicable,—

(i) the persons who are landowners, tenants or assignees of land-revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and

(iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(*b*) a statement of customs respecting rights and liabilities in the estate;

(*c*) a map of the estate; and

(*d*) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

Making or special revision of record-of-rights.

32. (*1*) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Local Government may by notification direct that a record-of-rights be made or that the record-of-rights be specially revised, as the case may be.

(*2*) The notification may direct that records-of-rights shall be made or specially revised for all or any estates in any local area.

(*3*) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

Annual record.

33. (*1*) The Collector shall cause to be prepared by

by the patwári of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(*2*) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (*2*), clause (*a*), of section 31 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(*3*) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwári of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to land-owners, assignees of revenue and occupancy-tenants.

34. (*1*) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a landowner, assignee of land-revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwári of the estate.

(*2*) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári.

(*3*) The patwári shall enter in his register of mutations every report made to him under sub-section (*1*) or sub-section (*2*), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(*4*) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made

made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(*5*) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

35. The acquisition of any interest in land other than a right referred to in sub-section (*1*) of the last foregoing section shall,—

(*a*) if it is undisputed, be recorded by the patwári in such manner as the Financial Commissioner may by rules in this behalf prescribe; and,

(*b*) if it is disputed, be entered by the patwári in the register of mutations and dealt with in the manner prescribed in sub-sections (*4*) and (*5*) of the last foregoing section.

Determination of disputes.

36. (*1*) If during the making, revision or preparation of any record or in the course of any inquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(*2*) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(*3*) A direction of a Revenue-officer under sub-section (*2*) shall be subject to any decree or order which

which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variation of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwáris under clause (*a*) of section 35 with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred;

(*b*) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties;

(*c*) making new maps where it is necessary to make them.

Mutation-fees.

38. (*1*) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(*2*) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of records.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights

Rights of the Government and presumptions with respect thereto and to other matters.

Rights of the Government in mines and minerals.

41. All mines of metal and coal, and all earth-oil and gold-washings, shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Presumption as to ownership of forests, quarries and waste-lands.

42. (*1*) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(*2*) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the landowners.

(*3*) The presumption created by sub-section (*1*) may be rebutted by showing—

(*a*) from the record or report made by the assessing officer at the time of assessment, or

(*b*) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land-revenue.

(*4*) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

Compensation for infringement of rights of third parties in exercise

43. (*1*) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface

face of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement. of a right of the Government.

(*2*) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870. X of 1870.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. Presumption in favour of entries in records-of-rights and annual records.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877. I of 1877. Suit for declaratory decree by person aggrieved by an entry in a record.

Supplemental Provisions.

46. The Financial Commissioner may make rules— Power to make rules respecting records and other matters connected therewith.

(*a*) prescribing the language in which records and registers under this Chapter are to be made;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(*d*) for the conduct of inquiries by Revenue-officers under this Chapter; and

(*e*) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

47. (*1*) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates. Records-of-rights and annual records for groups of estates.

(*2*) The

(*2*) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

CHAPTER V.

ASSESSMENT.

Assessment of land-revenue.

48. (*1*) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force.

(*2*) Land-revenue may be assessed in cash or in kind, or partly in cash and partly in kind, as the Local Government may direct.

(*3*) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed is not payable to the Government.

General Assessments.

Notification of intended re-assessment and instructions as to principles of assessment.

49. (*1*) A general re-assessment of the land-revenue of a district or tahsil shall not be undertaken without the previous sanction of the Governor General in Council and notification of that sanction.

(*2*) In granting the sanction the Governor General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

Mode of determining assessment.

50. (*1*) The assessment shall be made by a Revenue-officer.

(*2*) Before making it that officer shall report his proposed method of assessment for the sanction of the Financial Commissioner in such form as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

51. (*1*) When

Announcement of assessment.

51. (*1*) When the Revenue-officer has obtained the sanction of the Financial Commissioner to his proposed method of assessment, he shall make an order determining the assessment proper for each estate and announce it in such manner as the Local Government may prescribe.

(*2*) At the time of announcing the assessment he shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

Application for re-consideration of assessment.

52. (*1*) The landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a re-consideration of the amount, form or conditions of the assessment.

(*2*) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Revenue-officer.

(*3*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

53. (*1*) An assessment of the land-revenue of a district or tahsil shall not be considered final until it has been confirmed by the Local Government.

(*2*) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may modify the assessment of any estate in the district or tahsil.

(*3*) The Local Government shall, when confirming an assessment under sub-section (*1*), fix the period for which the assessment is to be in force.

Assessment to remain in force till new assessment takes effect.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (*3*) of the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment

55. (*1*) At any time within ninety days from the date of the announcement of an assessment the land-

owner

and consequences thereof.

owner or, where there are more landowners than one, any of them who would be individually or collectively liable for more than half the sum assessed may give notice to the Revenue-officer of refusal to be liable for the assessment.

(*2*) When the Revenue-officer receives a notice under sub-section (*1*), the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(*3*) While the estate is in the possession of the Collector, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realized by the Government from the estate.

Distribution of the assessment of an estate over the holdings comprised therein.

56. (*1*) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

(*2*) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(*3*) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest, a Revenue-officer shall from year to year or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

(*4*) The Financial Commissioner may make rules for

for the guidance of Revenue-officers in making, publishing and revising records under this section.

Application for amendment of the distribution of an assessment.

57. (*1*) Any person affected by a record made under sub-section (*1*) or sub-section (*3*) of the last foregoing section, or by the revision of a record under sub-section (*2*) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

(*2*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Appeals from orders under sections 52 and 57.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (*1*) Special assessments may be made by Revenue-officers in the following cases, namely :—

(*a*) when estates are formed under the next following section;

(*b*) when land-revenue which has been released or assigned is resumed;

(*c*) when waste-lands are sold, leased or granted by the Government;

(*d*) when the assessment of any land has been annulled or the landowner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired;

(*e*) when assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause;

(*f*) when

(*f*) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

(*2*) The Financial Commissioner may make rules for the guidance of Revenue-officers in making special assessments, and may confirm such assessments.

(*3*) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe by rules under the last foregoing sub-section, regulate the procedure of Revenue-officers making special assessments.

Formation of waste-land into separate estates.

60. (*1*) When, in the opinion of the Collector or of an officer making a general re-assessment of land-revenue under the foregoing provisions of this Chapter, the waste-land belonging to or adjoining an estate is so extensive as to exceed the requirements of the owners of the estate with reference to pasturage or other useful purpose, the Collector or officer may at any time, with the previous sanction of the Financial Commissioner, make a separate assessment of the waste-land which he considers to be so in excess, and offer that land at that assessment, for such term and on such conditions as he thinks fit, to the owners of the estate to which it belongs, and, if they refuse the offer, to the owners of any estate which the land adjoins, and, if they also refuse the offer, to any other person.

(*2*) When the owners of the estate to which the waste-land belongs refuse the offer, the Collector shall assign to them an annual allowance not less than five and not more than ten per cent. of the net income realized by the Government from the land.

CHAPTER VI.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

Security for payment of land-revenue.

61. (*1*) In the case of every estate, the entire estate and the landowner or, if there are more than one, the landowners jointly and severally shall be liable for the land-revenue for the time being assessed on the estate:

Provided that—

(*a*) the Local Government, with the previous sanction of the Governor General in Council, may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding; and

(*b*) when there are superior and inferior landowners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(*2*) A notification under proviso (*a*) to sub-section (*1*) may have reference to any single estate or to any class of estates or estates generally in any local area.

Further security for payment of land-revenue.

62. (*1*) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(*2*) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce, and any arrear

arrear of land-revenue due in respect of the estate or holding, have been paid.

Orders to regulate payment of land-revenue.

63. (*1*) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue is to be paid.

(*2*) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable at the commencement of this Act.

Rules to regulate collection, remission and suspension of land-revenue.

64. (*1*) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

(*2*) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(*3*) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

Certified account to be evidence as to arrear.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

Processes for recovery of arrears.

67. Subject to the other provisions of this Act, an arrear

arrear of land-revenue may be recovered by any one or more of the following processes, namely:—

(*a*) by service of a writ of demand on the defaulter;

(*b*) by arrest and detention of his person;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops;

(*d*) by transfer of the holding in respect of which the arrear is due;

(*e*) by attachment of the estate or holding in respect of which the arrear is due;

(*f*) by annulment of the assessment of that estate or holding;

(*g*) by sale of that estate or holding;

(*h*) by proceedings against other immoveable property of the defaulter.

Writ of demand.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Arrest and detention of defaulter.

69. (*1*) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(*2*) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(*3*) When the defaulter is brought before the Collector, the Collector may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(*4*) The

(*4*) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

Distress and sale of moveable property and crops.

70. (*1*) At any time after an arrear of land-revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer.

(*2*) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887: XVI of 1887.

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

Transfer of holding.

71. (*1*) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person being a landowner of the estate in which the holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

(*2*) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(*3*) The Collector shall report to the Financial Commissioner any transfer made by him under this section,

section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(*4*) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced.

(*5*) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(*6*) When the transfer was for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

Attachment of estate or holding.

72. (*1*) At any time after an arrear of land-revenue has accrued, the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

(*2*) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(*3*) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(*4*) Land shall not be attached for the same arrear for a longer term than five years from the commencement

ment of the agricultural year next following the date of the attachment, but, if the arrear is sooner discharged, the land shall be released and the surplus receipts, if any, made over to the landowner.

Annulment of assessment of estate or holding.

73. (*1*) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(*2*) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(*a*) while under attachment under the last foregoing section, or

(*b*) while under the charge of the Court of Wards.

(*3*) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(*4*) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the landowner.

(*5*) The

(*5*) The landowner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(*6*) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(*7*) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(*8*) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

Proclamation of attachment or annulment of assessment, and consequences of the proclamation.

74. (*1*) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(*2*) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(*3*) No payment made after the making of the proclamation on account of rent or any other asset of the

the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

Sale of estate or holding.

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold for the recovery of—

(*a*) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (*a*), (*b*), (*c*) or (*d*); or IV of 1872.

(*b*) any arrear which has accrued while the land was under attachment under section 72 of this Act; or

(*c*) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor.

Effect of sale on incumbrances.

76. (*1*) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(*2*) Nothing

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) a tenant's right of occupancy, unless the right was created by the defaulter himself, or

(*b*) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or

(*c*) any incumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

Proceedings against other immoveable property of defaulter.

77. (*1*) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(*2*) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(*3*) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been

been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(*4*) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(*5*) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

Remedies open to person denying his liability for an arrear.

78. (*1*) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

Proclamation of sale.

79. (*1*) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

(*a*) the date, time and place of the sale;

(*b*) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof;

(*c*) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances,

cumbrances, grants, contracts and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*);

(*d*) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any incumbrance, grant or contract to which the property is known to be liable; and

(*e*) the amount for the recovery of which the sale is ordered.

(*2*) The proclamation shall also state that any person intending to claim a right of pre-emption must, on pain of forfeiting the right, give notice of his intention to the Collector on an office-day before that fixed for the sale.

(*3*) The place of sale specified under clause (*a*) of sub-section (*1*) must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (*1*) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildár of the tahsil in which the property to be sold is situate.

(*2*) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildár, a copy thereof shall be posted in the office of the Collector.

(*3*) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (*1*) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty

thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(*2*) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

Payment of deposit by highest bidder.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

Consequences of failure to pay deposit.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land-revenue.

Exercise of right of pre-emption.

87. (*1*) At any time before the close of the day on which the sale takes place any person who has given notice of his intention to claim a right of pre-emption under section 79, sub-section (*2*), may, on payment to the officer conducting the sale of a deposit of twenty-five

five per centum on the highest bid made at the sale, claim to take the property at that bid.

(*2*) If the right is not disputed, he shall be declared to be the purchaser.

(*3*) If the right is disputed, the Collector shall inquire into and decide the dispute and declare the purchaser, and his decision and declaration shall be final.

Time for payment in full.

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Procedure in default of payment.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold.

Report of sale to Commissioner.

90. Every sale of immoveable property under this Chapter shall be reported by the Collector to the Commissioner.

Application to set aside sale.

91. (*1*) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(*2*) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order confirming or setting aside sale.

92. (*1*) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if

if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(*2*) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

On confirmation of sale, possession and certificate to be granted to purchaser.

95. (*1*) After a sale has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*).

(*3*) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(*4*) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(*5*) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling

ing due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (*1*) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(*2*) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(*3*) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (*1*), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorized by law.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

Recovery of certain arrears through Revenue-officer instead of by suit.

97. When a village-officer required by rules under section 28 to collect any land-revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner

missioner may make in this behalf, recover it as if it were an arrear of land-revenue.

Other sums recoverable as arrears of land-revenue

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:—

(*a*) fees, fines, costs and other charges, including the village officers' cess, payable under this Act;

(*b*) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate;

(*c*) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; XX of 1883.

(*d*) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force; and

(*e*) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue.

Application of Chapter VI to sums

99. (*1*) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as

as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear. recoverable under this Chapter.

(*2*) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (*1*) to the recovery thereof.

CHAPTER VIII.

Surveys and Boundaries.

100. (*1*) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates. Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

(*2*) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

101. (*1*) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired. Power of Revenue-officers to define boundaries.

(*2*) In defining the limits of any land under sub-section (*1*), the Revenue-officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall Cost of erection and re-

pair of survey-marks.

shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required:

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess.

Recovery of cost incurred by the Government.

103. (*1*) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(*2*) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just, and certify the same to the Collector.

(*3*) The Collector may recover the cost as if it were an arrear of land-revenue.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purpose of preparation of records.

105. (*1*) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(*2*) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine, which may extend to ten rupees.

106. (*1*) For

Provision of flagholders and chainmen for those surveys.

106. (*1*) For the purposes of the survey of any land in pursuance of rules under section 46, clause (*c*), the landowners shall be bound to provide fit persons to act as flagholders and chainmen.

(*2*) If the landowners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

Professional surveys.

107. (*1*) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed and the nature of the survey;

(*b*) the names or official designations of the officers by whom the survey is to be made; and

(*c*) the kind of survey-marks to be erected by those officers.

(*2*) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury or removal of survey-marks.

108. (*1*) If any person wilfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(*2*) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

109. Every

Report of destruction or removal of or injury to survey-marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX.

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue and rent.

110. (*1*) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the landowners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(*2*) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

(*a*) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

(*c*) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

112. Notwithstanding

Restrictions and limitations on partition.

112. Notwithstanding anything in the last foregoing section—

(*1*) places of worship and burial-grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue-officer;

(*2*) partition of any of the following properties, namely:—

(*a*) any embankment, watercourse, well or tank, and any land on which the supply of water to any such work may depend,

(*b*) any grazing-ground, and

(*c*) any land which is occupied as the site of a town or village and is assessed to land-revenue,

may be refused if in the opinion of the Revenue-officer the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein or to diminish the utility thereof to those persons;

(*3*) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy; and

(*4*) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

Notice of application for partition.

113. The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not

not open to objection on the face of it, fix a day for the hearing thereof, and—

(*a*) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also; and

(*b*) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure on admission of application.

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested, distinguishing between—

(*a*) questions as to title in the property of which partition is sought; and

(*b*) questions as to the property to be divided, or the mode of making the partition.

Disposal of questions as to title in property to be divided

117. (*1*) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine

determine the question as though he were such a Court.

(*2*) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely :—

(*a*) If the question is one over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887.

XVI of 1887.

(*b*) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein.

XIV of 1882.

(*c*) An appeal shall lie from the decree of the Revenue-officer under clause (*b*) as though that decree were a decree of a district Judge in an original suit.

(*d*) Upon such an appeal being made, the Divisional Court or Chief Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.

(*e*) From the appellate decree of a Divisional Court upon such an appeal a further appeal shall lie to the Chief Court if such a further appeal is allowed by the law for the time being in force.

Disposal of other questions.

118. (*1*) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(*2*) An appeal may be preferred to the Commissioner from an order under sub-section (*1*) within fifteen days from the date thereof, and, when such an appeal

appeal is preferred and the institution thereof has been certified to the Revenue-officer by the Commissioner, the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(*3*) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(*4*) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (*2*), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

Distribution of revenue and rent after partition.

120. (*1*) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(*2*) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (*1*).

(*3*) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution

bution of the land-revenue among the several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property.

Affirmation of partitions privately effected.

123. (*1*) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(*2*) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

Power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When by established custom any land in an estate is subject to periodical re-distribution a Revenue-officer may, on the application of any of the land-owners,

owners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition.

Officers who may be empowered to act under this Chapter.

126. The Revenue-officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. (*1*) Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(*2*) A Collector or any Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

(*a*) any matter of which an entry is to be made in any record or register under Chapter IV;

(*b*) any matter relating to the distribution of an assessment under section 56;

(*c*) the limits of any estate or of any holding, field or other portion of an estate; or

(*d*) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (*1*) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(*2*) The

(*2*) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(*3*) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. (*1*) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(*2*) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(*3*) An order under the last foregoing sub-section shall be final.

Substitution of arbitrato by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and substitution of arbitrators by Revenue officers.

131. In any of the following cases, namely:—

(*a*) if either of the parties fails to nominate an arbitrator under sub-section (*1*) of section 129 within the period fixed in the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under sub-section (*2*) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within

one

one week from the date of the communication to him of a notice requiring him to make the nomination, or

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

Process for appearance before arbitrators.

132. (*1*) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(*2*) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (*1*), either in person or by agent, as the arbitrators may require.

(*3*) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

Award of arbitrators and presentation thereof.

133. (*1*) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(*2*) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. (*1*) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(*2*) Where a date has been fixed for the consideration

ation of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(*3*) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award.

135. (*1*) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(*2*) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

Special Jurisdiction with respect to Land.

Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.

136. (*1*) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a general re-assessment of land-revenue in any local area in pursuance of a notification under section 49, or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the Punjab Courts Act, 1884, for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area.

XVIII of 1884.

(*2*) The Local Government may cancel an order under sub-section (*1*) wholly or in part.

(*3*) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(*4*) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if

if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

Control over such officers and appeals from and revision of their decrees and orders.

137. (*1*) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of a Civil Court of any of the classes specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 17 of the Punjab Courts Act, XVIII of 1884, and that appeals shall lie from his decrees and orders to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

(*2*) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

Power to deposit certain sums other than rent.

138. (*1*) In either of the following cases, namely:—

(*a*) when a headman or other landowner, or an assignee of land-revenue, to whom any sum other

other than rent is payable on account of a liability under this Act refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(*b*) when the person by whom any such sum is payable is in doubt as to the headman or other landowner, or the assignee of land-revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(*2*) When a deposit has been so received, the liability of the depositor to the headman or other landowner, or the assignee of land-revenue, for the amount thereof shall be discharged.

Procedure in case of deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (*1*) A Revenue-officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*2*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from

from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner with the concurrence of the Chief Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (*1*) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(*2*) A payment to the Collector under sub-section (*1*) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (*1*) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(*2*) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(*3*) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any

any person appointed by him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

Division of produce.

144. In either of the following cases, namely:—

(*a*) where land-revenue is paid by division or appraisement of the produce,

(*b*) where a superior and an inferior landowner, or two or more shareholders in a holding or tenancy, are jointly interested in any produce, and either or any of the landowners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

XVI of 1887. the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable.

Miscellaneous.

Village-cesses.

145. (*1*) At any of the following times, namely:—

(*a*) when a record-of-rights is being made or specially revised for an estate,

(*b*) when the local area in which an estate is situate is being generally re-assessed and before the assessment has been confirmed,

(*c*) at any other time on an order made with respect to any estate by the Local Government with the previous sanction of the Governor General in Council,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the Local Government, or the title to which has before the passing of this Act been judicially established.

(*2*) When a list has been prepared for an estate under

under sub-section (*1*), a village-cess not comprised therein shall not be recoverable by suit in any Court.

(*3*) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

(*4*) The Governor General in Council may, on a reference from the Local Government, declare whether any cess, contribution or due levied in an estate is or is not a village-cess.

(*5*) A declaration of the Governor General in Council under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

Superior landowners' dues.

146. Where a superior landowner is entitled to receive in respect of any land from an inferior landowner dues in kind or in cash of fluctuating quantity or amount, the Collector may—

(*a*) on the application of both landowners, or,

(*b*) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior landowner in respect of the land.

Substitution of service for payment of land-revenue.

147. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, authorize the remission of land-revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person.

(*2*) The Local Government may, with the like sanction, cancel any remission authorized, and agreement made, under sub-section (*1*).

(*3*) If

(*3*) If a landowner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

148. (*1*) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner may determine to be just.

(*2*) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

149. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

Prevention of encroachment on common lands.

150. (*1*) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

(*2*) The proceedings of the Revenue-officer under sub-section (*1*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

151. (*1*) Any

Papers kept by village-officers to be deemed public documents.

151. (*1*) Any record or paper which a village-officer is required by law, or by any rule under this Act, to prepare or keep shall be deemed to be the property of the Government.

(*2*) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect. I of 1872.

Costs.

152. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Computation of periods limited for appeals and applications for review.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1877. XV of 1877.

Restriction on Revenue-officers bidding at auctions or trading.

154. (*1*) A Revenue-officer, or a person employed in a revenue-office, shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue Court in the district in which he is employed has ordered to be sold, or,

(*b*) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(*2*) Nothing in sub-section (*1*) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law. VI of 1882.

Power to make rules.

155. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under

under this Act, make rules consistent with this Act, and any other enactment for the time being in force—

(*a*) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid;

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers;

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics, and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and

(*g*) generally

(*g*) generally for carrying out the purposes of this Act.

(*2*) Until rules are made under clauses (*a*) and (*b*) of sub-section (*1*) the sums therein referred to shall be payable by the instalments, at the times and places, and in the manner by, at and in which they are now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government, and rules under clause (*c*) of sub-section (*1*) shall not take effect until they have also been confirmed by the Governor General in Council.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.

Powers exercisable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(*2*) a Civil Court shall not exercise jurisdiction over any of the following matters, namely:—

(i) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

(ii) any

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;

(iii) any claim to the office of kánúngo, zaildár, inámdár or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;

(iv) any notification directing the making or revision of a record-of-rights;

(v) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;

(vi) the correction of any entry in a record-of-rights, annual record or register of mutations;

(vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor General in Council;

(viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;

(ix) the amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;

(xi) any

(xi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;

(xii) the formation of an estate out of waste-land;

(xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue;

(xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;

(xvi) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought;

(xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical redistribution,

distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act;

(xx) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses;

(xxi) any proceeding under this Act for the commutation of the dues of a superior landowner;

(xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or

(xxiii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for or redeemed to pay on the land-revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildár, inámdár or village-officer as may be prescribed by rules for the time being in force under this Act.

THE SCHEDULE.

THE SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1836	Creation of new Zilas .	So much as has not been repealed.
Act VI of 1867 .	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act VII of 1870 .	The Court-fees Act, 1870 .	In section 20, clause (*i*), the words "and Revenue," and the whole of section 23.
Act XXXIII of 1871.	The Punjab Land-Revenue Act, 1871.	The whole.
Act IV of 1872 .	The Punjab Laws Act, 1872.	Section 21.
Act XVIII of 1884	The Punjab Courts Act, 1884.	Chapter VI.
Regulation I of 1872.	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive), comprising sections G, H, I and K of the Hazára Settlement Rules.

Government of India Central Printing Office.—No 73 L D —31-10-87.—3,900.

THE ALLAHABAD UNIVERSITY ACT, 1887.

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[*Price four annas and three pies.*]

ACT No. XVIII of 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd September, 1887.)

An Act to establish a University at Allahabad.

WHEREAS it has been determined to establish a University at Allahabad; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Allahabad University Act, 1887; and

(*2*) It shall come into force at once.

Establishment and incorporation of University.

2. (*1*) A University shall be established at Allahabad, and the Governor General for the time being shall be the Patron of the University.

(*2*) The University shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

(*3*) The University shall be a body corporate by the name of the University of Allahabad, having perpetnal succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for or incidental to the purposes of its constitution.

(*4*) The University shall come into existence on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Chancellor.

3. The Lieutenant-Governor of the North-Western Provinces for the time being shall be the Chancellor of the University, and the first Chancellor shall be the Honourable Sir Alfred Comyns Lyall, Knight Commander of the Most Honourable Order of the Bath, Knight Commander of the Most Eminent Order of the Indian Empire.

4. (*1*) The

Vice-Chancellor.

4. (*1*) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may from time to time appoint in this behalf.

(*2*) Except as provided in sub-sections (*3*) and (*4*), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(*3*) If a Vice-Chancellor leaves India he shall thereupon cease to be Vice-Chancellor unless the Chancellor otherwise directs.

(*4*) The Hon'ble Sir John Edge, Knight, Queen's Counsel, Chief Justice of the High Court of Judicature for the North-Western Provinces, shall be deemed to have been appointed the first Vice-Chancellor, and his term of office shall, subject to the provisions of sub-section (*3*), expire on the last day of December, 1889.

Fellows.

5. (*1*) The following persons shall be Fellows, namely :—

(*a*) all persons for the time being holding such offices under the Government as the Local Government may, by notification in the official Gazette, specify in this behalf;

(*b*) persons whom the Chancellor may from time to time appoint by name as being eminent benefactors of the University, or persons distinguished for attainments in Literature, Science or Art, or for services to the cause of education ; and

(*c*) such persons as may from time to time be elected by the Senate of the University and approved by the Chancellor:

Provided that—

(i) the whole number of the Fellows holding office under clauses (*a*), (*b*) and (*c*), exclusive of the Vice-Chancellor, shall not be less than thirty; and

(ii) the number of persons for the time being elected and approved under clause (*c*) shall not

not exceed the number for the time being appointed under clause (*b*).

(*2*) A person appointed under clause (*b*), or elected and approved under clause (*c*), of sub-section (*1*) shall not, by succeeding to an office notified under clause (*a*) of that sub-section, cease to be a Fellow under clause (*b*) or clause (*c*) thereof, as the case may be.

First Fellows.

6. (*1*) The offices specified in Part I of the schedule shall be deemed to have been specified in a notification issued under section 5, sub-section (*1*), clause (*a*); and

(*2*) The persons named in Part II of the schedule shall, except for the purposes of the second clause of the proviso to section 5, sub-section (*1*), be deemed to be Fellows appointed under clause (*b*) of sub-section (*1*) of section 5, or elected and approved under clause (*c*) of that sub-section.

Vacation of office of Fellow.

7. (*1*) The Local Government may, by notification in the official Gazette, cancel or amend any portion of Part I of the schedule or any notification under section 5, sub-section (*1*), clause (*a*).

(*2*) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate present at a meeting specially convened for the purpose, remove any Fellow appointed under clause (*b*) of sub-section (*1*) of section 5 or elected and approved under clause (*c*) of that sub-section.

(*3*) If any Fellow leaves India without the intention of returning thereto, or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

Honorary Fellows.

8. Every person who has filled the office of Patron or Chancellor shall be an honorary Fellow of the University, but shall not be a member of the Senate.

Constitution and powers of Senate.

9. (*1*) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

(*2*) The Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall provide for that management

management and exercise that superintendence in accordance with the rules for the time being in force under this Act.

Chairman at meetings of Senate.

10. At every meeting of the Senate the Chancellor, or, in his absence, the Vice-Chancellor, or, in the absence of both, a Fellow chosen by the Fellows present at the meeting or by a majority of them, shall preside as Chairman.

Proceedings at meetings of Senate.

11. (*1*) When a question respecting the election of any person to be a Fellow under section 5, sub-section (*1*), clause (*c*), comes before the Senate at a meeting, it shall be decided by a majority of the votes given thereat by the members in person or by proxy.

(*2*) Every other question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present.

(*3*) No question shall be decided at any such meeting unless ten members at the least, besides the Chairman, are present at the time of the decision.

(*4*) The Chairman and, subject to the foregoing provisions of this section respecting the mode of voting, every Fellow shall have one vote, and the Chairman, in case of an equality of votes, shall have a second or casting vote.

Appointment of Syndicate, Faculties, examiners and officers.

12. Subject to the rules for the time being in force under this Act, the Senate may from time to time—

(*1*) appoint, or provide for the appointment of, a Syndicate, from among the members of the Senate;

(*2*) constitute Faculties of Arts and Law and, with the previous approval of the Governor General in Council, of Science, Engineering and Medicine;

(*3*) appoint, suspend and remove, or provide for the appointment, suspension and removal of, examiners, officers and servants of the University;

(*4*) appoint, or provide for the appointment of, professors and lecturers, and suspend and remove,

remove, or provide for the suspension and removal of, professors and lecturers appointed by the Senate.

Functions and proceedings of Syndicate.

13. (*1*) The Syndicate shall be the executive committee of the Senate, and may discharge such functions of the Senate as it may be empowered to discharge by the rules for the time being in force under this Act.

(*2*) The Vice-Chancellor shall be a member of the Syndicate and shall preside as Chairman at every meeting of the Syndicate at which he is present.

(*3*) If the Vice-Chancellor is absent from any such meeting, the members present shall choose one of their number to be Chairman of the meeting.

(*4*) Every question at a meeting shall be decided by a majority of the votes of the members present.

(*5*) In case of an equality of votes the Chairman shall have a second or casting vote.

Power to confer degrees after examination.

14. Subject to the rules for the time being in force under this Act, the Senate may confer on persons who have passed such examinations in the University and fulfilled such other conditions as may be prescribed under this Act—

(*a*) in the Faculty of Arts, the degrees of Bachelor and Master of Arts;

(*b*) in the Faculty of Law, the degrees of Bachelor and Doctor of Laws;

and, if empowered by the Governor General in Council in this behalf,—

(*c*) in the Faculty of Science, the degrees of Bachelor and Doctor of Science;

(*d*) in the Faculty of Medicine, the degrees of Bachelor and Doctor of Medicine;

(*e*) in the Faculty of Engineering, the degrees of Bachelor and Master of Civil Engineering.

Power to confer honorary degree.

15. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person,

person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of the members present at a meeting of the Senate and is confirmed by the Chancellor, the Chancellor may, on behalf of the Senate, confer on that person the degree of Doctor of Laws without requiring him to undergo any examination.

Power to levy fees.

16. (*1*) The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the rules for the time being in force under this Act.

(*2*) Such fees shall be carried to a General Fee Fund for the payment of expenses of the University.

Power to make rules.

17. (*1*) The Senate shall, as soon as may be after the coming into existence of the University, and may from time to time thereafter, make rules consistent with this Act touching—

(*a*) the mode and time of convening the meetings of the Senate and of transacting business thereat;

(*b*) the appointment, constitution and duties of the Syndicate and the Faculties, and the election of Fellows under section 5, sub-section (*1*), clause (*c*);

(*c*) the appointment, suspension, removal, duties and remuneration of examiners, officers and servants;

(*d*) the appointment, duties and remuneration of professors and lecturers, and the suspension and removal of professors and lecturers appointed by the Senate;

(*e*) the previous course of instruction to be followed by candidates for the examinations of the University;

(*f*) the

(*f*) the examinations to be passed and the other conditions to be fulfilled by candidates for degrees; and,

(*g*) generally, all matters regarding the University.

(*2*) All such rules shall be reduced into writing and sealed with the common seal of the University, and shall,—

(*a*) in the case of rules made under clause (*e*) or clause (*f*) of sub-section (*1*), after they have been confirmed by the Local Government and sanctioned by the Governor General in Council; and,

(*b*) in the case of all other rules, after they have been sanctioned by the Local Government,

be binding on all members of the University or persons admitted thereto and on all candidates for degrees.

(*3*) If, on the expiration of eighteen months from the date on which the University comes into existence, rules have not been made and sanctioned or, as the case may be, have not been made, confirmed and sanctioned, under the foregoing provisions of this section, touching a matter mentioned in sub-section (*1*), the Local Government may, by notification in the official Gazette, make such rules touching that matter as it thinks fit.

(*4*) Subject, in the case of rules touching any matter mentioned in clause (*e*) or clause (*f*) of sub-section (*1*), to the sanction of the Governor General in Council, rules made by the Local Government under sub-section (*3*) shall be deemed to have been made and sanctioned, or, as the case may be, to have been made, confirmed and sanctioned, under sub-sections (*1*) and (*2*).

Examiners, officers and servants of the Senate to be deemed to be public servants.

18. (*1*) Every examiner, officer or servant appointed or remunerated by the Senate shall, for the purposes of the Indian Penal Code, be deemed to be a public servant.

XLV of 1860.

(*2*) The word "Government" in the definition of "legal

"legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (*1*), be deemed to include the Senate, and sections 162 and 163 of the Code shall be construed as if the words "or with any member of the Senate of the Allahabad University" were inserted after the words "with any Lieutenant-Governor."

Duty of Local Government to enforce Act and rules.

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and the rules for the time being in force thereunder, and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and those rules.

Notifications in certain cases.

20. All appointments made under section 4, all appointments made and elections approved under section 5, sub-section (*1*), clauses (*b*) and (*c*), all degrees conferred under sections 14 and 15, and all rules made under section 17, shall be notified in the local official Gazette.

Annual accounts and audit thereof.

21. (*1*) The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as that Government may direct.

(*2*) For the purposes of the examination and audit the auditor appointed by the Local Government may by letter require the production before him of any books, vouchers and other documents which he deems necessary, and may require any person holding or accountable for any such books, vouchers or documents to appear before him at the examination and audit or adjournment thereof and to answer all questions which may be put to him with respect thereto or to prepare and submit any further statement which the auditor considers necessary in explanation thereof.

(*3*) Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon

upon him, refuses or neglects to comply with a requisition under sub-section (*2*) shall be punished for every such refusal or neglect with fine which may extend to one hundred rupees.

(*4*) When the auditor has completed the examination and audit he shall report the result thereof to the Local Government, and that Government may thereupon disallow any payment made contrary to law and surcharge it on the person making or authorizing the making of the illegal payment.

(*5*) If the amount of a payment so surcharged is not paid, as the Local Government directs, within fourteen days after demand being made therefor, the Secretary of State for India in Council may proceed by suit in any Court of competent jurisdiction to recover the amount from the person on whom the surcharge was made.

THE SCHEDULE.

(*See section 6.*)

PART I.

Offices to be deemed to have been specified under section 5, sub-section (*1*), clause (*a*) :—

The office of—

Bishop of Calcutta;

Chief Justice of the High Court of Judicature for the North-Western Provinces;

Chief Commissioner of the Central Provinces;

Agent to the Governor General in Rajputana;

Chief Secretary to the Government of the North-Western Provinces and Oudh;

Secretary to the Government of the North-Western Provinces and Oudh in the Public Works Department;

Commissioner of Allahabad;

Commissioner of Lucknow;

Commissioner of Agra;

Director of Public Instruction, North-Western Provinces and Oudh;

Principal of the Muir Central College, Allahabad;

Principal of the Queen's College, Benares.

PART II.

Persons to be deemed to have been appointed, or to have been elected and approved, as Fellows under section 5, sub-section (*1*), clause (*b*) or clause (*c*) :—

1. The Hon'ble James Wallace Quinton, Bachelor of Arts, Bengal Civil Service, Member of the Board of Revenue of the North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Additional Member of the Council of the Governor General for making Laws and Regulations, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

2. The Hon'ble William Tyrrell, Bachelor of Arts, Bengal Civil Service, Judge of the High Court of Judicature for the North-Western Provinces.

3. The Hon'ble Syed Ahmed, Khan Bahadur, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

4. The Hon'ble Syed Mahmud, Barrister-at-Law, Judge of the High Court of Judicature for the North-Western Provinces.

5. The Hon'ble Pandit Ajudhya Nath, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

6. Lieutenant-Colonel John Greenlaw Forbes, of the Royal Engineers, Fellow of the Calcutta University, Joint Secretary to Government, North-Western Provinces and Oudh, in the Public Works Department.

7. Surgeon-Major James Cleghorn, Doctor in Medicine, Civil Surgeon, Lucknow.

8. Rájá Shiva Prasada, Companion of the Most Exalted Order of the Star of India.

9. Mortimer

9. Mortimer Sloper Howell, Esquire, Bengal Civil Service, District Judge, North-Western Provinces, Companion of the Most Eminent Order of the Indian Empire, Fellow of the Calcutta University.

10. Rájá Jai Kishan Das, Bahadur, Deputy Collector, North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University.

11. Rájá Udai Pratab Singh, Talúqdár of Bhinga in the Bahraich District.

12. Brigade-Surgeon Emanuel Bonavia, Doctor in Medicine, Civil Surgeon, Etáwah.

13. Mahamahopadhyaya Bapu Deva Shastri, Sanskrit College, Benares, Companion of the Most Eminent Order of the Indian Empire.

14. John C. Nesfield, Esq., Master of Arts, Inspector of Schools, Oudh Division.

15. Kenneth Deighton, Esq., Bachelor of Arts, Inspector of Schools, Rohilkhand Division.

16. William Charles Benett, Esq., Bengal Civil Service, Secretary to the Government of the North-Western Provinces and Oudh.

17. Michael J. White, Esq., Master of Arts, Principal, Canning College, Lucknow.

18. Alexander Thomson, Esq., Principal, Agra College.

19. Bábú Pramoda Das Mittra, Honorary Magistrate, Benares.

20. Charles H. Hill, Esq., Barrister-at-Law, Allahabad.

21. William H. Wright, Esq., Bachelor of Arts, Professor of English Literature, Muir Central College, Allahabad.

22. W. N. Boutflower, Esq., Bachelor of Arts, Professor of Mathematics, Muir Central College, Allahabad.

23. Shams-ul-Ulama Maulavi Zaka-ulla, Khan Bahadur, *Emeritus* Professor of Arabic, Muir Central College, Allahabad.

24. Samuel Alexander Hill, Esq., Bachelor in Science, Professor of Physical Science, Muir Central College, Allahabad, and Meteorological Reporter to the Government.

25. The Reverend John Hewlett, Master of Arts, Principal, London Mission College, Benares.

26. Pandit

26. Pandit Lakshmi Shankar Misra, Master of Arts, Professor of Physical Science, Benares College.

27. Theodore Beck, Esq., Bachelor of Arts, Principal, Muhammadan Anglo-Oriental College, Aligarh.

28. Pandit Aditya Rám Bhatacharya, Master of Arts, Professor of Sanskrit, Muir Central College, Allahabad.

29. Munshi Newal Kishore, Lucknow.

30. Bábú Bireshwar Mittra, Professor of Law, Benares College.

31. Lála Mukand Lál, Rae Bahadur, Honorary Assistant Surgeon to the Viceroy, Lecturer, Medical College, Agra.

32. Bábú Ram Saran Das, Master of Arts, Fyzabad.

Government of India Central Printing Office.—No. 74 L, D.—23-10-87.—3,000.

ACT No. XIX OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd September, 1887.)

An Act to provide for the Administration of the Estate of His late Majesty the King of Oudh.

WHEREAS His late Majesty Wajid Ali Shah, King of Oudh, was during his lifetime exempt from the jurisdiction of the Civil Courts, and it is expedient to make provision for the administration of his estate otherwise than under the authority of those Courts; It is hereby enacted as follows:—

Administration of the estate of the late King of Oudh by the Governor General in Council.

1. (*1*) The Governor General in Council shall have exclusive authority to act in the administration of the property of whatever nature left by His late Majesty the King of Oudh in regard to the settlement and satisfaction of claims against the estate of His late Majesty, and may make distribution of the remaining property or the proceeds thereof in such manner as he deems fit among the family and dependents of His late Majesty.

(*2*) No act of the Governor General in Council in connection with the administration to or distribution of the property left by His late Majesty shall be liable to be questioned in any Court.

Indemnity to Agent to the Governor General.

2. The Agent to the Governor General with His late Majesty, and all persons acting under his orders, are hereby indemnified and discharged from liability in respect of all acts done by him or them since the twentieth day of September, 1887, in connection with the preservation and administration of the estate of

His

[*Price one anna and three pies.*]

His late Majesty, and no suit or other proceeding shall be instituted in any Court against him or them, or against the Secretary of State for India in Council, in respect of those acts or any of them.

Effect of Act.

3. This Act shall take effect notwithstanding any testamentary or other disposition which may have been made by His late Majesty, and notwithstanding any proceedings which may have been or may be instituted before any Civil Court for administering his estate or collecting the debts due to it, and any person who under any probate, letters of administration or certificate, or otherwise howsoever, has received or realised any portion of the estate of His late Majesty shall be bound to account therefor to such officer as the Governor General in Council may appoint in this behalf.

Government of India Central Printing Office.—No. 75 L. D.—22-10-37.—3,700.

ACT No. XX OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 21st October, 1887.*)

An Act for the Protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game;

And whereas it is expedient that Local Governments and cantonment-authorities as well as municipal authorities should be empowered to make such rules;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Wild Birds Protection Act, 1887.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act—

(*1*) "municipal authority" means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force:

(*2*) "cantonment-authority" means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment: and

(*3*) "wild bird" includes a peacock and every bird of game.

Power to make rules.

3. (*1*) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment-authority

[*Price one anna and six pies.*]

cantonment-authority of any municipality or cantonment, may from time to time make rules—

(*a*) defining the expression "wild bird" for the purposes of this Act in its application to the municipality or cantonment;

(*b*) defining for those purposes the breeding season of any kind of wild bird; and

(*c*) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(*2*) The authority making a rule under clause (*c*) of sub-section (*1*) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(*3*) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment-authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (*5*) of section 6 of the General Clauses Act, 1887. I of 1887.

Power to apply Act to any animals of game.

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment-authority, may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals

animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

Government of India Central Printing Office.—No. 88 L. D.—14-11-87.—3,000.

ACT No. XXI OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st October, 1887.)

An Act to provide for the establishment of bonded warehouses at places other than customs-ports.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports; It is hereby enacted as follows:—

Title, construction and commencement.

1. (*1*) This Act may be called the Inland Bonded Warehouses Act, 1887.

(*2*) It shall be read with, and taken as part of, the Sea Customs Act, 1878: and

VIII of 1878.

(*3*) It shall come into force at once.

Inland bonded warehouses and law applicable thereto.

2. (*1*) Notwithstanding anything in the Sea Customs Act, 1878, the Chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

VIII of 1878.

(*2*) In reference to such a place and the warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

[*Price one anna.*]

Government of India Central Printing Office.—No. 80 L. D.—14-11-87.—3,000.